

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

\* \* \* \* \*

ONE WISCONSIN INSTITUTE, INC., CITIZEN  
ACTION OF WISCONSIN EDUCATION FUND., INC.,  
RENEE M. GAGNER, ANITA JOHNSON,  
CODY R. NELSON, JENNIFER S. TASSE,  
SCOTT T. TRINDL, and MICHAEL R. WILDER,

Plaintiffs,

-vs-

Case No. 15-CV-324-JDP

JUDGE GERALD C. NICHOL,  
JUDGE ELSA LAMELAS,  
JUDGE THOMAS BARLAND,  
JUDGE HAROLD V. FROEHLICH,  
JUDGE TIMOTHY VOCKE,  
JUDGE JOHN FRANKE,  
KEVIN J. KENNEDY and MICHAEL HASS,  
all in their official capacities,

Madison, Wisconsin  
May 16, 2016  
8:05 a.m.

Defendants.

\* \* \* \* \*

STENOGRAPHIC TRANSCRIPT OF FIRST DAY OF COURT TRIAL  
MORNING SESSION  
HELD BEFORE DISTRICT JUDGE JAMES D. PETERSON,

APPEARANCES:

For the Plaintiffs: Perkins Coie, LLP  
BY: JOSHUA KAUL  
CHARLES CURTIS, JR.  
RHETT MARTIN  
One East Main Street, Ste. 201  
Madison, Wisconsin 53703

Lynette Swenson RMR, CRR, CBC  
U.S. District Court Federal Reporter  
United States District Court  
120 North Henry Street, Rm. 520  
Madison, Wisconsin 53703

1 For the Plaintiffs:

Perkins Coie, LLP  
 2 BY: BRUCE SPIVA  
 700 Thirteen Street, N.W.  
 3 Washington, D.C. 20005

Perkins Coie, LLP  
 4 BY: BOBBIE WILSON  
 505 Howard Street, Ste. 1000  
 5 San Francisco, California 94015

6 Also appearing: Matt Kennedy - Litigation Specialist  
 7

8 For the Defendants:

Wisconsin Department of Justice  
 9 BY: CLAYTON KAWSKI  
 MICHAEL MURPHY  
 10 JODY SCHMELZER  
 GABE JOHNSON-KARP  
 11 Assistant Attorneys General  
 17 West Main Street  
 12 Madison, Wisconsin 53703

13 Also appearing: Heather Schultz - Litigation Specialist  
 Rachel Roberts - Litigation Specialist  
 14

15 \* \* \* \* \*

16 **I-N-D-E-X**

17 Opening statement by Mr. Kaul 10-59  
 18 Opening statement by Mr. Kowski 60-75

19 <u>PLAINTIFFS' WITNESSES</u>	<u>EXAMINATION</u>	<u>PAGES</u>
20 TODD ALLBAUGH	Direct by Mr. Kaul	77-92
	Cross by Mr. Murphy	92-94
21	Redirect by Mr. Kaul	94-100
GLENN GROTHMAN	(Video played)	100
22 DALE SCHULTZ	(Video played)	101
NANNETTE MAYZE	Direct by Mr. Spiva	101-138
23	Cross by Ms. Schmelzer	138-147
	Redirect by Mr. Spiva	147-148
24 CASSANDRA SILAS	Direct by Mr. Kaul	149-169
	Cross by Ms. Schmelzer	169-181
25	Redirect by Mr. Kaul	181-184

**E-X-H-I-B-I-T-S**PLAINTIFFS' EXHIBITSIDENTIFIED/RECEIVED

Ex. 367	22-11	Document	111	---
367	22-12	Randle SS card	104	---
367	22-14	" birth certificate	107	---
367	22-17	REAL ID affidavit	116	---
367	22-18	Cover letter	116	---
367	22-19	Letter	119	---
367	22-20	REAL ID instructions	120	---
354		Silas documents	154	---
445		5-13-16 letter	132	---

DEFENDANTS' EXHIBITS

Ex. 211		Document	141	---
213		Silas petition	171	---
271		Silas application	174	---

\* \* \* \* \*

(Proceedings called to order.)

THE CLERK: Case Number 15-CV-324-JDP. One Wisconsin Institute et al. v. Gerald Nichol, et al. Court is called for a court trial. May we have the appearances, please.

MR. SPIVA: It's a little hard to hear you back here. I think you asked for appearances.

THE COURT: Yes. We'll have the appearances, so go ahead.

MR. SPIVA: Okay. Thank you, Your Honor. Good morning. My name is Bruce Spiva and I'm here with my partner Bobbie Scott (sic), my colleague Josh Kaul and my partner Chuck Curtis.

1 THE COURT: Good morning to you.

2 MS. WILSON: Bruce, you mean to say Wilson.

3 MR. SPIVA: I'm sorry. Your Honor, Bobbie  
4 Wilson. I have a congressman from the area where I grew  
5 up named Bobbie Scott. First morning of trial.

6 THE COURT: Is he here?

7 MR. SPIVA: No. He's not here, Your Honor.

8 THE COURT: All right. Thank you.

9 MR. SPIVA: I'm sorry. And also my colleague  
10 Rhett Martin with me.

11 THE COURT: All right. Very good.

12 MR. KAWSKI: Good morning, Judge Peterson.  
13 Assistant Attorney General Clay Kawski. And with me  
14 today I have Assistant Attorney Generals Mike Murphy,  
15 Jody Schmelzer and Gabe Johnson-Karp. And our paralegal  
16 Matt Kennedy will be helping us present our case as well.

17 THE COURT: All right. Very good. Thank you.  
18 Good morning to you all. So I assume the first thing  
19 we're ready to begin with before I deal with some  
20 preliminaries are the opening statements. Is that right?

21 MR. SPIVA: Yes, Your Honor. We had one  
22 preliminary matter we wanted to raise but...

23 THE COURT: Okay. Let me deal first with the  
24 request that we have received at the clerk's office from  
25 individuals who I assume are from the media who want to

1 use electronic devices in the courtroom. I will follow  
2 what has been my usual practice when I get requests like  
3 that and I will allow people who are reporting on the  
4 case to use electronic devices in the courtroom because  
5 the basic rule is that there are no, other than the  
6 people who are on this side of the bar working the case  
7 and nobody is supposed to be using electronic devices,  
8 but I will allow it for the media. But to make the job  
9 of the court security officers easier, which is to say to  
10 make it possible for them to enforce the rule against  
11 people who aren't reporting on the case, I would like to  
12 have all the media sit in a designated spot so that we  
13 can tell the court security officers who the media are  
14 and then other people who are just bored or doing  
15 something else can be asked to stop.

16 So we don't have to do a whole parade here now, but  
17 after we take our first break I would like the media to  
18 sit -- and I don't know how many -- maybe just have a  
19 show of hands. How many people are here from the media  
20 and how many of you would like to use electronic devices  
21 for your reporting? So that's just about everybody.  
22 You're kind of conveniently located there, so let's do  
23 this: Let's keep the first row clear. Looks like -- are  
24 you in the second row or are you in the first row?

25 UNIDENTIFIED PERSON: I'm in the first row.

1 THE COURT: Are the parties using the first row  
2 for --

3 MR. KAWSKI: We're not.

4 THE COURT: -- storage of boxes or anything like  
5 that? All right. The first row would be fine. So if we  
6 could -- let's have the media in the -- from the bench's  
7 perspective, the left and center in the first three rows.  
8 So if you're in the media and you want to use electronic  
9 devices, you should be there. Anybody else outside of  
10 those areas shouldn't be using electronic devices. So  
11 after our first break, reorient yourselves so that you're  
12 in those spaces so the court security officers will know  
13 who is authorized to use electronic devices.

14 Okay. So a little procedure matter. You can stay  
15 there, just pull the microphone over.

16 MR. SPIVA: Okay. Your Honor, this is under the  
17 category we felt like we needed to raise this. We aren't  
18 asking for any type of relief at the moment, but we  
19 received a very large -- what appears to be a very large  
20 document production from the defendants at close of  
21 business on Friday.

22 THE COURT: Okay.

23 MR. SPIVA: It was two disks containing over 4.5  
24 gigabytes of data and there was new material that was  
25 mixed in amongst what was old material, but they have not

1 been able to identify for us what's new and what's not  
2 and they literally said they did not know what was new  
3 and what was not. Mr. Curtis stayed up all weekend  
4 combing through the files, and he and our tech people  
5 report that there appear to be hundreds of new documents  
6 and many documents that have been added to, altered or  
7 moved around.

8 We've also found several instances where these --  
9 Your Honor recalls the IDPP process that's been referred  
10 to, a number of these denials of the free ID under the  
11 IDPP process wherein the IDPP denial folder previously in  
12 the last DMV production from April 19th have now been  
13 moved over to the canceled folder and reclassified as  
14 customer cancelations which has the effect of hiding the  
15 number of denials that have occurred. We're still  
16 processing this, Your Honor, trying to separate out  
17 what's truly new from what's old.

18 We may need to come to Your Honor at some point and  
19 ask for some sort of relief, but I just wanted to raise  
20 it now. I didn't want to not say anything and then, you  
21 know, you say well why did you want to sit on your  
22 rights.

23 THE COURT: I understand. So you're not asking  
24 for anything just yet, but why don't we just check in  
25 with the defense side and find out what the production

1 was. Who's got the point on this?

2 MR. MURPHY: It's a production related to the  
3 IDPP process. It's an update to what has been produced  
4 in the past. And the IDPP process is ongoing. The folks  
5 at DMV are working day by day, hour by hour, even right  
6 now, and so to keep current on the most current facts and  
7 also consistent with our obligations to continue ongoing  
8 disclosures, there have been updates made.

9 The thing of it is it's a large amount of bytes, but  
10 it's not a lot of new material. We're turning over  
11 things as they are kept in the ordinary course of  
12 business, and of course the people working on these don't  
13 keep a running track on every time they hit save on a  
14 Word document. So what we're doing is we're reproducing  
15 in the format that things are ordinarily stored and kept.  
16 And any updates will be cumulative. And it's a vast  
17 majority of reproduction, that's true, but there's no way  
18 to efficiently filter that when everything is moving all  
19 the time.

20 Petitions do change categories. There's nothing  
21 hiding about that. Things that were in denial, new  
22 information come in, they can be brought out of denial,  
23 put back into active. Things like that happen in the  
24 ordinary procedures. There's absolutely nothing hiding  
25 going on. In fact, it's the maximum possible disclosure



1 that we can make to make sure that both sides have the  
2 absolute current information to present to the Court.

3 THE COURT: Well, since nobody is asking for any  
4 relief at this point I'll just offer this word of  
5 guidance which is that I appreciate the idea that you're  
6 trying to keep production current, but the maximum  
7 possible production is not always what's fair or  
8 reasonable. The sides should be in rough parity in terms  
9 of the ability to access and understand this information,  
10 and I suspect that the DMV, although it is on an ongoing  
11 basis, has some method of making sense of this data that  
12 the plaintiffs may not. So at this point, all I'm going  
13 to do is say it's up to the parties to cooperate to make  
14 sure that the plaintiffs have a way of understanding this  
15 information that is roughly in parity with the way the  
16 DMV could do it.

17 MR. MURPHY: Yeah, and I should just add that  
18 all these are broken into subfolders by category and  
19 petitioner. So it's not like a data dump. It's not like  
20 a disk with unsorted material that is --

21 THE COURT: That's good enough for my purposes  
22 today. So I'm just going to tell the parties to  
23 cooperate and make sure that the plaintiffs can make as  
24 much sense out of the data as the DMV can.

25 Anything else before we dig in?

1 MR. SPIVA: No, Your Honor. And Mr. --

2 THE COURT: Anything else from the defense side  
3 before we get going?

4 MR. KAWSKI: No, Your Honor.

5 THE COURT: All right. Very good.

6 MR. SPIVA: Mr. Kaul is going to do the opening  
7 for our side.

8 THE COURT: Very good. (8:17 a.m.)

9 MR. KAUL: Good morning, Your Honor. Before I  
10 start, I just want to make the Court aware we're going to  
11 have some exhibits that will be coming up on the screen.

12 THE COURT: Okay.

13 MR. KAUL: There's a mix of confidential  
14 materials and public materials and so I think toggling  
15 back and forth is going to be impossible, so they'll all  
16 just be for Your Honor's viewing and the parties' viewing  
17 for now. If that's all right with the Court.

18 THE COURT: Let's proceed and we'll see how we  
19 get, because I can relatively easily turn off the public  
20 monitors.

21 MR. KAUL: I'm also happy to tell Your Honor  
22 when an exhibit is going to be confidential.

23 THE COURT: Why don't we start out and we'll  
24 just have everything up there, but give me a heads up and  
25 then we'll just mute the monitors.

1 MR. KAUL: Okay. Thank you, Your Honor.  
2 Shortly before he introduced the Voting Rights Act,  
3 President Johnson spoke to a joint session of Congress  
4 about voting rights. The history of this country, he  
5 said, in large measure is the history of expansion of the  
6 right to vote to all of our people. There is no reason  
7 which can excuse the denial of that right. There is no  
8 duty which weighs more heavily on us than the duty we  
9 have to ensure that right. The fact remained, however,  
10 that, as he put it, every device of which human ingenuity  
11 is capable has been used to deny this right. For that  
12 reason, President Johnson called for the adoption of the  
13 Voting Rights Act, one of the acts that's directly at  
14 issue in this case.

15 Since the start of 2011, the sort of discriminatory  
16 human ingenuity about which President Johnson spoke has  
17 been on display in the Wisconsin State Capitol with  
18 respect to voting rights. During the four-year period on  
19 which this case focuses, the State of Wisconsin acted to  
20 make it more difficult to vote in approximately 15  
21 different ways. These restrictions were justified, not  
22 by any meaningful State interest, but instead by  
23 manufactured problems that were unsupported by any real  
24 evidence.

25 The evidence here will show, in fact, that

1 restricting access to the ballot box was not simply a  
2 consequence but rather the very purpose of these laws.  
3 As Your Honor is aware, the 2008 presidential election in  
4 Wisconsin was a fundamentally different election from the  
5 two preceding presidential elections. The two prior  
6 elections were decided by an extremely narrow margin of  
7 less than a half a point. The 2008 election was decided  
8 by 14 percentage points.

9 The outcome of the 2010 election was very different.  
10 Scott Walker was of course elected Governor and  
11 Republicans took control of both Houses and the State  
12 Legislature, and the events that followed were  
13 unprecedented in the history of the state. In early  
14 2011, the bill drastically limiting collective  
15 bargaining, ultimately known as Act 10, was introduced.  
16 Massive protests followed involving as many as 100,000  
17 protestors in and around the State Capitol. And  
18 significantly here, recall petitions were circulated  
19 leading to the recall elections for a number of state  
20 senators as well as Governor Walker.

21 In the midst of this upheaval, the Legislature began  
22 its effort to restrict access to voting in the voter  
23 registration. On May 25 of 2011, Wisconsin enacted 2011  
24 Wisconsin Act 23. That legislation imposed the voter ID  
25 requirement; reduced the in-person absentee or early

1 voting period from 30 days to only 12 days; it eliminated  
2 corroboration; required a certification of citizenship on  
3 dorm lists used for voter registration; it increased the  
4 residency requirement; eliminated straight-ticket voting,  
5 and eliminated statewide special registration deputies.

6 On November 16, 2011, the state eliminated the  
7 option that clerks had to fax or email rather than mail  
8 absentee ballots to voters.

9 In April of 2016, the state adopted laws that  
10 limited the circumstances in which clerks could return  
11 absentee ballots to voters and the requirement that SRDs  
12 be appointed at most high schools.

13 In November of 2012, of course President Obama was  
14 reelected and he again carried Wisconsin. But in the  
15 following session, the state legislature, which was again  
16 in Republican control following a brief period of  
17 Democratic control following some of the recall elections  
18 of 2012, the Legislature picked up where it had left off.

19 In December of 2013, the state enacted legislation  
20 that overturned Madison's requirement that landlords  
21 provide voter registration forms to new tenants.

22 On March 27, 2014, the state enacted 2013 Wisconsin  
23 Act 146 which eliminated evening and weekend in-person  
24 absentee voting.

25 And on April 2nd, 2014, the state adopted bills that

1 require that election observers be placed between three  
2 and eight feet from where voters sign in and register;  
3 and that most voters provide documentary proof of  
4 residence when they register to vote no matter how far  
5 away from the election they're registering.

6 The state legislature did not pass a bill that was  
7 introduced in March of 2013. That bill would have  
8 permitted municipalities to open multiple in-person  
9 absentee voting locations. It would have made it easier  
10 to vote.

11 The evidence in this case will show that these  
12 fundamental changes in Wisconsin election law didn't  
13 relate to any problem in election administration either.  
14 A few charitable trusts ranked Wisconsin as one of the  
15 top four states in the country in its effectiveness of  
16 election administration in both the 2008 and 2010  
17 elections.

18 Your Honor, our evidence about the burdens imposed  
19 by these challenge provisions and their disparate impact  
20 will come in several different layers. At the most  
21 granular level, you'll hear from affected voters,  
22 individuals whose right to vote has been burdened and in  
23 a number of cases denied as a result of the provisions  
24 that are at issue. You'll also hear from activists and  
25 organizers, people who help others register and vote and

1 observe the burdens that the provisions impose on those  
2 voters.

3       You'll hear from DMV officials who will discuss how  
4 the state's ID process has been implemented. You'll hear  
5 from the chief election officials of the state's two  
6 largest cities, as well as the director and general  
7 counsel of the GAB and the lead election specialist at  
8 the GAB.

9       And finally, you'll hear from experts who will  
10 testify, among other things, about their analyses of  
11 Wisconsin election data and the state of the scholarly  
12 literature with respect to some of the issues raised in  
13 this case.

14       Now, through the summary judgment filings in this  
15 case we've outlined some of the high-level points about  
16 the burdens that these laws impose and the disparate  
17 impact. So I'll focus this morning primarily on newer  
18 developments. With that said, I do want to touch on at  
19 least some of the key evidence regarding the burdens that  
20 the challenge provisions impose.

21       With respect to the state's two reductions of the  
22 period for in-person absentee voting and the rule  
23 limiting absentee voting to a single location per  
24 municipality, the evidence will show that about 60,000  
25 voters cast in-person absentee ballots on the Monday

1 before the November 2008 election. That's one of the  
2 days that was eliminated by Act 23.

3 Dr. Ken Mayer, from the University of Wisconsin,  
4 will explain that he found that in 2010, the last  
5 statewide election in which registration was permitted in  
6 the three days before election day, significantly more  
7 people registered over that period in cities with high  
8 concentrations of African Americans than in other cities.  
9 And research on early voting has --

10 THE COURT: Is that more -- I want to be clear  
11 about that. Significantly more people registered over  
12 that period in cities with high concentrations, you mean  
13 on a proportionate --

14 MR. KAUL: That's correct, Your Honor.

15 THE COURT: -- basis? Okay.

16 MR. KAUL: And research on early voting has  
17 consistently found that minority voters are more likely  
18 than white voters to vote on the weekend before an  
19 election. Again, that's the period that was eliminated  
20 -- part of the period that was eliminated by Act 23.

21 The evidence will also show that the one-location  
22 rule deters in-person absentee voting, particularly in  
23 Milwaukee and Madison where it's resulted in long lines.  
24 And in fact, defense expert Trey Hood has written in his  
25 scholarly work that making early in-person voting more



1 convenient in terms of location and hours results in  
2 higher early turnout. And the GAB has recommended that  
3 municipalities be permitted to use multiple in-person  
4 absentee voting locations.

5 Now, to alleviate the problems from the one-location  
6 rule, Milwaukee and Madison had offered extended evening  
7 and weekend hours during high turnout elections. Data  
8 from the GAB show that Milwaukee and Madison accounted  
9 for 65 percent of weekend early voters in 2010, 66  
10 percent of such votes in the recall election in 2012, and  
11 49 percent of those votes during the November 2012  
12 general election. So the evidence is powerful that these  
13 laws eliminating weekend early voting were targeted  
14 specifically in Milwaukee and Madison.

15 The Legislature, of course, has eliminated those  
16 voting hours.

17 THE COURT: How many -- if it were evenly  
18 distributed among the voting population, what percentage  
19 would Madison and Milwaukee represent?

20 MR. KAUL: If the weekend early voting were  
21 evenly distributed?

22 THE COURT: Yeah.

23 MR. KAUL: You mean what --

24 THE COURT: My understanding here is a high  
25 proportion of the state's early voting during those

1 periods, say like 65 percent, so what you're saying come  
2 from Madison and Milwaukee. Well, what percentage would  
3 come from Madison and Milwaukee if it were evenly  
4 distributed among the population?

5 MR. KAUL: I understand, Your Honor. I believe  
6 the percentage of the voting age population that Madison  
7 and Milwaukee make up is about 12 to 14 percent. I know  
8 that the experts will know the numbers on that, but  
9 that's my recollection.

10 THE COURT: All right. Good.

11 MR. KAUL: As I mentioned in my brief summary  
12 before, the state has also made a number of changes to  
13 the registration rules. All of them make it harder to  
14 register to vote, particularly when considered in  
15 combination. I'll provide just a few examples of the  
16 impact of these changes. In a six-year period, over  
17 35,000 Wisconsinites registered using corroboration.  
18 That option is just no longer available. The elimination  
19 of corroboration, in combination with the expansion of  
20 documentary proof of residence requirement, has had the  
21 effect of requiring everybody who registers to vote to  
22 have some acceptable document that shows their residence.  
23 For voters who don't have such documentation, for  
24 example, an 18-year-old who lives with his parents and  
25 doesn't drive, registering can be extremely difficult if

1 not impossible. And these changes disproportionately  
2 burden African Americans and Latinos who, the evidence  
3 will show, are, first of all, less likely to have the  
4 types of proof of residence documents that are most  
5 commonly used, and secondly, are more likely to move and  
6 therefore to have to re-register.

7       The expansion of the documentary proof of residence  
8 requirement has also forced election administrators to  
9 reject a large number of registration applications  
10 submitted by mail because people don't realize that they  
11 need to submit a physical copy of their proof of  
12 registration -- proof of residence with their  
13 application. So in Milwaukee, 375 of the first 565  
14 registrations, that's all the data we had, that were  
15 submitted by mail after the change in the law; in other  
16 words, over 65 percent, did not include documentary proof  
17 of residence. The expanded documentary proof of  
18 residence requirement and the elimination of statewide  
19 SRDs has also seriously hampered the ability of groups  
20 like The League of Women Voters to do voter registration  
21 drives. And that's because, first of all, a lot people  
22 just don't have documentary proof of residence on their  
23 person when they're walking around and are encountered by  
24 people who are doing a drive. Secondly, because the  
25 elimination of statewide SRDs means that if somebody is

1 doing a voter registration drive and a voter comes up who  
2 is from a different city from the one in which the SRD is  
3 authorized, there can't be registration done.

4 Other changes to the registration rules clearly  
5 target young voters. As I mentioned before, the state  
6 has eliminated the requirement that most high schools  
7 have SRDs. The state has also eliminated -- largely  
8 eliminated registration through the use of dorm lists,  
9 because the requirement that the dorm lists contain a  
10 certification of citizenship would mean that if colleges  
11 submit that certification, they are in violation of FERPA  
12 of federal law.

13 Likewise, Your Honor, the law overriding Madison's  
14 ordinance that required landlords to distribute voter  
15 registration forms will predictably burden renters in  
16 Madison, which is a group made up of disproportionate  
17 share of students, African Americans and Latinos.

18 With respect to the change in the residency rules,  
19 it of course is more difficult now for voters who move  
20 more than 10 but fewer than 28 days before an election.  
21 They either have to know about this fairly obscure rule  
22 and cast an absentee ballot or they have to travel back  
23 to their prior residence, which could be from one end of  
24 the state to the other to vote. The elimination of  
25 straight-ticket voting slows the voting process, the

1 evidence will show, which means longer lines, and it also  
2 increases the possibility for voter error.

3 In 2012, there were more than 1,000 over votes cast  
4 in Milwaukee in the presidential contest. This is after  
5 the elimination of straight-ticket voting. The  
6 elimination of the option to fax or email absentee  
7 ballots has made it more difficult for some voters,  
8 particularly voters who are temporarily overseas like  
9 students studying abroad, to get absentee ballots to them  
10 in time for them to return those ballots and have them  
11 counted, and the change in election observer rules that  
12 moved observers closer to voters despite evidence in the  
13 state's recent history that aggressive observers had  
14 created problems in some locations makes it easier for  
15 observers to intimidate voters, to invade a voter's  
16 privacy, and to slow down the voting process.

17 Now, Your Honor, I'm also going to talk about the  
18 burdens imposed by the Voter ID Law, but before I do  
19 that, let me start by highlighting some significant  
20 changes that have taken place since the Seventh Circuit  
21 issued its decision in *Frank*. First as the Court is  
22 aware from our filings in this case, the IDPP hadn't yet  
23 been implemented at the time of *Frank*, and as I'll  
24 discuss in a minute, there's abundant evidence in this  
25 case that the IDPP has been and will in the future

1 continue to be administered in a manner that is just  
2 simply preposterous.

3 Second, the Seventh Circuit in *Frank* explained that  
4 the record didn't reveal what impact voter ID laws had on  
5 voters in other states with voter ID laws. But as a  
6 result of several recent studies we now have that  
7 evidence. Most significantly, the GAO, a non-partisan  
8 governmental organization, found not only that voter ID  
9 laws decreased turnout, but also that they have racially  
10 disparate impacts.

11 Third, the *Frank* court noted it didn't have evidence  
12 about whether the Voter ID Law in Wisconsin prevented  
13 people from voting. Again, we now have that evidence in  
14 a few different forms. Dr. Ken Mayer, who I mentioned  
15 before, found that in 2004 when a large number of voters  
16 incorrectly believed the Voter ID Law was in effect,  
17 voters who didn't possess an ID were significantly less  
18 likely than others to vote, even controlling for whether  
19 they had voted in 2010, the 2012 recall, or the 2012  
20 presidential election. On top of that, we know that in  
21 just the recent election, hundreds of voters cast  
22 provisional ballots that weren't cured, meaning those  
23 voters were disenfranchised. And the evidence will show  
24 that provisional ballots are just the tip of the iceberg  
25 when it comes to disenfranchisement that results from

1 voter ID laws.

2       The evidence will show that people such as the  
3 plaintiffs in this case who have asked for IDs but  
4 haven't gotten them don't show up at the polls to vote if  
5 they know there's a Voter ID Law and they don't have an  
6 ID. On top of that, a recent study shows that many  
7 voters can be confused. Voters who actually have an ID  
8 that qualifies may be confused into thinking they don't  
9 have such an ID and they're deterred from turning out as  
10 a result.

11       Fourth, unlike in *Frank*, the evidence now shows that  
12 the State Legislature has refused to fund a public  
13 education campaign regarding the Voter ID Law. Your  
14 Honor, PX454, which we'll pull up on the screen, contains  
15 a letter from Kevin Kennedy requesting funding for an  
16 education campaign from the cochairs of the Joint Finance  
17 Committee. In that letter, he said that a number of  
18 problems with the Voter Photo ID Law were reported in  
19 this year's February and April elections, suggesting the  
20 need for a comprehensive public education campaign, and  
21 later in the letter the GAB referred to the situation as  
22 an emergency.

23       Now, Director Kennedy will testify that it's been  
24 clear for several months that this public funding --  
25 public education campaign is needed, but it hasn't

1 happened. So for a number of reasons, the facts before  
2 this Court are very different from the facts that were  
3 before the *Frank* court.

4 Now, in terms of the burdens associated with the  
5 Voter ID Law, for voters who possess a qualifying ID, the  
6 burden by the Voter ID Law is that voters have to learn  
7 what forms of ID can be used for voting or be fortunate  
8 enough to show up with one of the correct forms and have  
9 to avoid losing their ID or having it stolen and they  
10 have to remember to bring their ID with them to the  
11 polls. Otherwise even voters with qualifying ID can be  
12 disenfranchised, and those voters may very well have to  
13 wait in longer lines because the evidence in this case  
14 will show that the Voter ID Law itself, the process of  
15 somebody pulling out an ID, someone else checking it and  
16 verifying the information slows down the check-in  
17 process.

18 For voters who don't possess an ID, the burdens  
19 imposed by the law can be severe. And to be clear, this  
20 is not a small number of voters. Dr. Mayer found that  
21 approximately 280,000 registered voters in Wisconsin  
22 don't have a DMV ID, and that's not accounting for the  
23 number of unregistered voters who in Wisconsin are  
24 eligible, of course, to register through same-day  
25 registration or other means to vote. And even defense



1 expert Dr. Hood found that well over 100,000 registered  
2 voters fall into this category.

3 The evidence will also show that as the burdens of  
4 the Voter ID Law increases --

5 THE COURT: When you say register, you mean  
6 people eligible to register? Some people were actually  
7 registered to vote already, but they lacked the  
8 qualifying ID.

9 MR. KAUL: It's the latter, Your Honor.

10 THE COURT: All right.

11 MR. KAUL: The evidence will show that as the  
12 burdens from the Voter ID Law increase, the racial  
13 disproportionality increases as well. To begin with, the  
14 number of voters have gone to the DMV to get free IDs,  
15 according to defense expert Dr. Hood, although African  
16 Americans make up about 5.6 percent of the voting-age  
17 population in Wisconsin, they make up 35.6 percent, so  
18 somewhere between six and seven times disproportionate  
19 the group of those who have obtained a free ID for voting  
20 purposes. Likewise, Latinos represent 3.3 percent of the  
21 voting-age population in Wisconsin, but they make up 8.3  
22 percent of the group that has had to obtain a free ID.  
23 So what that means is that if you're African American or  
24 Latino, you're far more likely than you would be if  
25 you're white to have to undertake the additional burden

1 of traveling to the DMV and waiting in line in order to  
2 get an ID to vote.

3 Even accounting for that, disproportionate ID  
4 possession remains. Dr. Mayer will testify that even  
5 accounting for those free IDs, about 8.3 percent of  
6 whites in Wisconsin don't possess a DMV ID, but the  
7 percentage raises to 9.8 percent for African Americans  
8 and 11.1 percent for Hispanics.

9 Within that group of voters who don't have ID, some  
10 will have their birth certificate or a passport, and if  
11 they can find transportation and learn about the Voter ID  
12 Law, they'll be able at least potentially to travel to a  
13 DMV to get a free ID. Voters without the records  
14 required to establish their name or date of birth or that  
15 they're U.S. citizens or voters who even have  
16 inconsistent information in their records, like different  
17 spellings or dates of birth in their vital records, face  
18 a much more difficult road.

19 Now, a select few of those individuals may receive  
20 an exception from those strict documentary requirements  
21 for obtaining a free ID from one of the several dozen  
22 mid-level DMV managers through a process that's guided by  
23 no written policies, it's subject to no review to ensure  
24 fair and uniform standards and is left entirely to the  
25 discretion of those mid-level DMV managers. But most

1 voters who don't have the required records or have  
2 inconsistent information in their documents must "enter  
3 the IDPP process."

4       So far nearly 1,400 people have submitted a petition  
5 under the IDPP. The DMV hasn't produced all of these  
6 records to us, but we have received at least partial  
7 records for about 988 petitioners as of April 19th and  
8 the records identify the race of 950 of those  
9 individuals. Of the 950 petitioners in the IDPP process,  
10 58 percent were African American, 10 percent were Latino,  
11 and 2 percent self-identified as Asian, Indian or Native  
12 American, meaning that 70 percent of the people who had  
13 to go through the IDPP process were nonwhite.

14       Of the 988 total petitions, 46 percent of the  
15 petitioners reside in Milwaukee. 59 percent reside in  
16 Milwaukee, Madison or Green Bay. A little over 30  
17 percent were born in Illinois, mostly in Cook County, and  
18 over 20 percent were born in a state that had *de jure*  
19 segregation under Jim Crow.

20       The evidence in this case will show that the IDPP  
21 has utterly failed to ensure that eligible voters are  
22 able to cast ballots. On the contrary, the process is  
23 burdensome, it's arbitrary, and it's had extremely  
24 disproportionate impacts by race. DMV's last-minute  
25 attempts to paper over those problems by changing its

1 rules on the eve of litigation will do little, if  
2 anything, to prevent problems from occurring in the  
3 future. For many IDPP petitioners, the troubles begin at  
4 the DMV Customer Service Center. One senior citizen who  
5 was turned away by DMV had been born in a concentration  
6 camp in Germany and his German birth certificate had been  
7 lost in a fire. He was turned away.

8 Another senior citizen who ultimately prevailed in  
9 the IDPP had a health care worker who tried eight  
10 different times to give the voter's baptism certificate  
11 to the DMV without success. Senior DMV officials  
12 ultimately accepted that proof. An analysis by the group  
13 within DMV that runs the IDPP, which is the Crime Audit  
14 and Fraud Unit, known as CAFU, an analysis for the period  
15 from March to August 2015 revealed an error rate in  
16 handling petitions at customer service centers at 27  
17 percent. An analysis for August 2015 through January  
18 2016 found a 26 percent error rate.

19 Now, once a completed application has been processed  
20 at the Customer Service Center, which is again a physical  
21 DMV location, the application is sent to a DMV division  
22 known as DEU, which contacts a vital records agency  
23 either from Wisconsin if the petitioner was born there or  
24 from another state if the petitioner was born elsewhere.  
25 And for people who are fortunate enough to have been born

1 in Wisconsin or another state like California that has  
2 modern computer systems and up-to-date records, an ID can  
3 be issued, although even then the process still takes at  
4 least a week which means that the two-and-a-half day cure  
5 period that Wisconsin has for voters who show up at the  
6 polls without a form of ID is going to be insufficient.  
7 But for those, for example, who are black and were born  
8 in the Jim Crow south or those who were born in Cook  
9 County which has disastrous records or those who have  
10 spelling or date of birth inconsistencies, the IDPP  
11 process becomes tortuous.

12 The petitions of these individuals are referred to,  
13 as I said, DMV's CAFU unit. As its name would suggest,  
14 the individuals who work on the petitions are  
15 professional fraud investigators. These are not voter  
16 advocates. And these petitioners, who are simply poor  
17 people trying to get the ID they need to vote and who are  
18 now known in what the ID folks called adjudication, are  
19 investigated in some of the same ways that a target of a  
20 criminal investigation would be. For many petitioners,  
21 the DMV has obtained reports known as CLEAR reports that  
22 contain information about residential address history,  
23 vehicle ownership history, property ownership and deed  
24 transfers, UCC filings, civil liens and judgments,  
25 possible associates, work affiliations, utility services,

1 foreclosures, bankruptcies, marriages, divorces, all  
2 sorts of private information. And the developments  
3 relating to a petition are documented in a case activity  
4 report just as the CAFU investigators do with their fraud  
5 investigations.

6 And in terms of how the process plays out, Your  
7 Honor, the evidence will show that you can pick your  
8 literary analogy here, whether it's Kofta or Dickens or a  
9 different writer. The evidence at trial will show -- and  
10 I'm going to bring up an exhibit that's confidential,  
11 Your Honor.

12 THE COURT: All right. Go ahead.

13 MR. KAUL: The results of this IDPP process are  
14 even more racially --

15 MR. KAWSKI: Your Honor, we can't see the  
16 exhibit.

17 MR. SPIVA: We can't either actually.

18 MR. KAWSKI: We can see it now. Thank you.

19 MR. KAUL: The results of this process are even  
20 more racially disparate than the IDPP itself is. This is  
21 a photo poster board with pictures of 61 people to whom  
22 DMV sent letters saying your petition for voter ID is  
23 denied, and what that means in Wisconsin is that your  
24 right to vote is denied. As those pictures make  
25 abundantly clear, of the 61 denials, 85 percent were

1 people who were nonwhite. Of the 34 suspensions as of  
2 last week, again people who don't have -- haven't  
3 received IDs, 74 percent were blacks and Latinos. And of  
4 the 44 cancelations we found as of April 19th, in many  
5 cases these are people who had simply thrown their hands  
6 up and said I've had enough of the process, 77 percent of  
7 the petitioners were nonwhite.

8 The process can also take an extremely long time.  
9 Some of the voters you'll hear about have been waiting  
10 for more than a year to get an ID and one has been  
11 waiting for over 600 days. We'll bring up another  
12 confidential exhibit right now, Your Honor.

13 THE COURT: Okay.

14 MR. KAUL: And if that's before the Court --

15 THE COURT: I can see it, yes.

16 MR. KAUL: This is a picture of two women who  
17 waited for six months to get their IDs and literally died  
18 while they were waiting for their IDs. Both were African  
19 American, both were born in Mississippi under Jim Crow,  
20 and both were long-time residents of Milwaukee.

21 Now, there are some petitioners who make every  
22 conceivable effort and the DMV won't give them an ID  
23 because the state has deemed necessary records that the  
24 petitioner just doesn't have. The process is also  
25 riddled with decisions that are absurd on their face.

1           Take just a couple of examples. Some individuals  
2 with minor spelling discrepancies in their names,  
3 individuals like one of the plaintiffs in this case,  
4 Johnny Randle, whose name is spelled slightly differently  
5 on his birth certificate from the version he has used his  
6 entire life and that's on his Social Security card.  
7 They've been told that they can only be issued an ID if  
8 they either change their names with Social Security,  
9 which Mr. Randle doesn't want to do that because he  
10 doesn't want to mess with his Social Security benefits,  
11 or they amend their birth certificates, a process that  
12 itself is quite complicated and can cost money.

13           Other individuals who DMV does not dispute are  
14 eligible to vote have been denied IDs because the records  
15 aren't clear about the precise date of birth. In some  
16 cases these individuals don't even know what their date  
17 of birth is. The process is also arbitrary in that  
18 similarly situated petitioners are treated in different  
19 ways and in some cases there's obvious favoritism. When  
20 a legislator contacts the DMV, for instance, higher level  
21 DMV officials tend to get involved and there tends to be  
22 a favorable outcome for the petitioner.

23           We're going to pull up an exhibit -- I don't know if  
24 this one needs to be confidential or not, Your Honor, so  
25 I'm going to pull it up as confidential at least. This



1 is Plaintiffs' Exhibit 331. This is an email exchange in  
2 which Jim Miller, who is the DMV official primarily  
3 responsible for determining whether petitions are  
4 approved or denied, he writes about --

5 THE COURT: I don't think this one needs to be  
6 confidential so I'm just going to put that one up. Go  
7 ahead.

8 MR. KAUL: Okay. This is a blowup of  
9 Mr. Miller's email, Your Honor, and as it shows, he's  
10 discussing the possibility that Ruth L. Frank, the lead  
11 plaintiff in the *Frank* case, would be requesting an ID.  
12 Mr. Miller writes to a regional manager "This is one of  
13 those times we need to use the gray areas of the law."  
14 Now, Mr. Miller will deny that that meant any favoritism.  
15 He did in his deposition. But that statement speaks for  
16 itself.

17 Now, because of the obvious constitutional and  
18 statutory defects with the IDPP, the state on the eve of  
19 trial has issued an emergency rule in which it  
20 acknowledges that under the IDPP, as it has operated for  
21 over a year-and-a-half, qualified applicants may not be  
22 able to obtain a voter ID with reasonable effort in time  
23 for the August or November 2016 elections. Now, those  
24 same voters were just ineligible to vote in the February  
25 2016 elections and the April 2016 elections. But putting

1 that aside, these new rules, Your Honor, don't amount to  
2 anything more than a Band-Aid. There's no question that  
3 eligible voters will continue to be disenfranchised under  
4 the new rules.

5 For instance, I mentioned before that some voters  
6 have inconsistent dates of birth on their vital records.  
7 The new rules don't do anything to address that problem  
8 and we can skip that demonstrative. Actually, could we  
9 bring it up as a confidential exhibit?

10 THE COURT: Okay. It's confidential.

11 MR. KAUL: Your Honor, this is again the photo  
12 board with all the petitioners. We can't identify them  
13 by name, but I will identify them by number: 1, 2, 3, 20  
14 and 23 are all voters who had date of birth issues and  
15 have been unable to vote. So once the temporary ID that  
16 they have expires, they're going to be in the same  
17 position they were when the process started.

18 And in some ways the new rules make things worse  
19 because they write into the Administrative Code or have  
20 made formal policies out of practices that simply don't  
21 make any sense. That makes them more difficult to change  
22 and makes these policies likely to last longer. I'll  
23 give you an example, Your Honor. When I was questioning  
24 Jim Miller during his deposition, we learned that some  
25 people with name discrepancies had been denied IDs like

1 Johnny Randle. But there was another individual who had  
2 a one-letter discrepancy who was granted an ID, and I  
3 asked him how that was consistent and he said "Well,  
4 that's only one-letter difference." And half jokingly I  
5 asked is there is a one-letter difference rule to the  
6 name verification process? And he said "yes," to my  
7 great surprise.

8 Well, in PX 461, we can see that -- and this can be  
9 public -- this policy has now become an official policy  
10 of the DMV. There's now an official one-letter rule.

11 And let's zoom in on Shaun near the bottom there.  
12 Shaun, if it's spelled S-h-a-u-n on a vital record, but  
13 S-h-a-w-n in the way the petitioner uses it, that's up to  
14 one process which is fairly simple. Process one. But  
15 turning to page two, you'll see near the bottom there's  
16 Sean, now it's misspelled S-e-a-n rather now S-h-a-w-n.  
17 Now Shawn gets an entirely different far more burdensome  
18 process, Your Honor.

19 Going down one, you'll see that if Mary Green  
20 becomes Sister Mary Green, she is also subject to this  
21 more burdensome process. Now, this is one example, but  
22 as you'll see during the course of the trial, there are  
23 numerous absurd examples just like this one. And now  
24 it's in code.

25 The bottom line here is that 61 Wisconsinites

1 received letters denying them a free ID. They were  
2 denied the right to vote. They were disenfranchised for  
3 the past two elections, and 80 others had petitions that  
4 were suspended or canceled meaning that unless they paid  
5 for an ID themselves, they also didn't obtain an ID and  
6 were disenfranchised. So those people are now getting a  
7 brief reprieve during which they have a temporary voter  
8 ID card, but after this short reprieve they'll be back  
9 where they started.

10 We also know that for a variety of reasons, these  
11 people who were denied, who again are almost entirely  
12 minorities, and the people who were put into suspended  
13 status or canceled are just the tip of the iceberg. This  
14 is, of course, a presidential election year and the DMV  
15 itself expects the demand for voter IDs to increase,  
16 though it has no extra staff or budget allocated to deal  
17 with the increased demand. And in fact, the  
18 administrator of the DMV has denied requests for extra  
19 funding. And these numbers don't account for people who  
20 simply throw up their hands and decide it's not worth  
21 going through the IDPP process or the number of people  
22 who haven't learned about it because there's been no  
23 outreach about voter ID, much less extraordinary proof.

24 And more broadly still, Your Honor, the number of  
25 voters who are burdened or disenfranchised goes well

1 beyond the IDPP. 375 voters cast no ID provisional  
2 ballots in last month's election and at least 258 of them  
3 were disenfranchised. And as I mentioned before, data  
4 from Ken Mayer demonstrates that the true deterrent  
5 effect of the Voter ID Law goes well beyond those  
6 numbers.

7 Now, the state has noted in some filings that  
8 turnout has been up in some recent elections, but as  
9 multiple experts will explain, that's simply  
10 inappropriate measure for drawing conclusions about the  
11 deterrent effect of the challenge provisions. And the  
12 reason is obvious, it's that many different factors,  
13 including increased intensity in spending as we've seen  
14 in recent races in Wisconsin and increased  
15 competitiveness as we saw in the recent primaries can  
16 drive turnout.

17 Dr. Mayer's analysis in this case in contrast looks  
18 at changes in behavior at the individual level. He looks  
19 at individuals who don't have IDs or individuals who are  
20 African American and based on that analysis he finds that  
21 the changes to voting and registration enacted since 2011  
22 imposed substantial burdens on voters registering or  
23 casting ballots; that these burdens have the greatest  
24 effect on identifiable subgroups, particularly racial  
25 minorities, young voters, students and registrants

1 without an ID, depressing their turnout by making it  
2 significantly harder to register and vote and that that  
3 impact was present in 2014 and almost entirely absent in  
4 2010 before these laws went into effect.

5 Now, Your Honor, the evidence in this case will show  
6 that the racially disparate impacts imposed by a number  
7 of the challenge provisions are linked to Wisconsin's  
8 history and the ongoing effects of discrimination.

9 Dr. Barry Burden is going to testify either this  
10 afternoon or tomorrow morning about this history, so I'm  
11 not going to belabor it here, but he does explain in his  
12 expert report that racial segregation and animosity have  
13 been enduring parts of the history of Milwaukee where  
14 two-thirds of Wisconsin's black population lives and that  
15 the city has been called the Selma of the north.

16 Some of the points that he highlights include the  
17 public disputes over educational and housing  
18 discrimination erupted and led to riots, including four  
19 deaths in 1967 in Milwaukee; that largely in response to  
20 school desegregation and open-housing laws,  
21 white-dominated suburbs quickly developed through white  
22 flight from Milwaukee and that this pattern of  
23 residential segregation was re-enforced not only by  
24 discriminatory real estate practices, but also by  
25 exclusionary land zoning rules in incorporated cities

1 near Milwaukee. Today Milwaukee is one of the most  
2 segregated cities in the United States.

3 With respect to education, in 1976 a federal judge  
4 held that Milwaukee schools were legally segregated.  
5 That case settled in 1975 -- 1979, fully 25 years after  
6 *Brown v. Board of Education* when the Milwaukee School  
7 Board agreed to implement a five-year plan to  
8 desegregate.

9 Data indicates that African Americans and Latinos  
10 are far more likely to be stopped by law enforcement and  
11 have their vehicles searched and to be ticketed despite  
12 not being more likely to have weapons, drugs, stolen  
13 goods. And in the state as a whole, African Americans  
14 are incarcerated at a rate more than ten times the rate  
15 of whites. That's the highest disproportionality, either  
16 by race or at least for African American males.

17 Until as recently as 2006 when federal law required  
18 Wisconsin to change its policies, only municipalities  
19 that had more than 5,000 people had to have voter  
20 registration and because approximately 98 percent of  
21 blacks, 91 percent of Latinos but only 68 percent of  
22 whites lived in their municipalities, a much larger  
23 percentage of minorities were subject to that restriction  
24 which contributed in turn to lower turnout by blacks and  
25 Latinos in Wisconsin.

1 Spanish-language ballots weren't provided in  
2 Milwaukee until 2012 when the Justice Department rules  
3 required the city to adopt that practice. And no other  
4 city in the state has ever had Spanish-language ballots.

5 Your Honor, the evidence will also show that  
6 Wisconsin has enormous racial disparities linked to its  
7 history of discrimination. Those exist in areas  
8 including education, employment, health. It's detailed  
9 in the unemployment rate disparities and gaps in  
10 employment itself, in the poverty rate which is 7 percent  
11 for whites but 32 percent for Latinos and 39 percent for  
12 blacks. Data also show that African Americans and  
13 Latinos are much more likely in Wisconsin to lack access  
14 to a vehicle. It's 23.1 percent of black households, 8.7  
15 percent of Hispanic households, but only 5.5 of white  
16 households that lack access to a vehicle, and that  
17 disparity has obvious significance for voting in a state  
18 with a Voter ID Law.

19 There are significant disparities in infant  
20 mortality rates. There are substantial and enduring  
21 educational disparities. And Dr. Lichtman, another  
22 expert for the plaintiffs, looked at a study that ranked  
23 states according to the black/white ratio of various  
24 socioeconomic measures and he found that Wisconsin ranked  
25 at or near the bottom of the states in the country on



1 most measures. It's the third worst state in the country  
2 in black/white disparities in the unemployment rate; the  
3 second worst in black/white disparities in family poverty  
4 rates, percentage of high school graduates and average  
5 eighth grade math scores, and it's the worst state in the  
6 country in black/white disparities in dropout rates.

7 And what's critical in this case is that all of  
8 those disparities relate to voting and the disparate  
9 impact that the challenge provisions impose on minority  
10 voters. The evidence will show that decades of political  
11 science research shows that voter participation is  
12 significantly affected by demographic factors like  
13 education, income, and health, and that those demographic  
14 markers strongly predict how likely it is that a citizen  
15 will be deterred from voting by the adoption of new  
16 restrictive measures like those that are at issue in this  
17 case. Put simply, Your Honor, the socioeconomic  
18 disparities have made it more difficult, or in political  
19 science parlance, more costly to vote for African  
20 Americans in Wisconsin than it was before the challenge  
21 provisions were adopted. And that greater difficulty is  
22 more significant for African Americans and Latinos than  
23 it is for whites.

24 THE COURT: Let me ask it this way: You'll have  
25 an opportunity to develop this more later, but can I

1 consider just the disparity evidence under the *Frank*  
2 rule? You know, there are the statements from Judge  
3 Easterbrook that -- and I think it's mostly in the  
4 context of the analysis of the Voting Rights Act -- but  
5 he says something like the government isn't responsible  
6 for remediating the discrimination of others, and so the  
7 disparity evidence, as compelling as it is in its own  
8 right within the legal framework that I have here to work  
9 with with *Frank*, I need to know more than that there's a  
10 disparity. And again, a few minutes ago you were talking  
11 about the history of legal segregation in Wisconsin. But  
12 the disparity evidence itself seems to me -- I guess my  
13 question is whether that's really something that I can  
14 consider within the framework for analyzing the problem  
15 that's set up by *Frank*.

16 MR. KAUL: Your Honor, I think your summary of  
17 *Frank* is correct and what I would say is that the test  
18 looks to the history and the ongoing effects of  
19 discrimination and it's our position that Dr. Burden and  
20 other testimony will establish that there clearly is a  
21 history of discrimination by the State of Wisconsin and  
22 its subdivisions and that that history plays a direct  
23 role in ongoing disparities between the African  
24 Americans, Latinos and whites in Wisconsin. And in fact,  
25 there is no other explanation for that disparity except

1 that it is linked to this history of discrimination.

2 So to the extent that that's the case, those  
3 disparities are directly relevant. If they were a matter  
4 of chance, it would be absolutely correct that they  
5 wouldn't be relevant.

6 THE COURT: I don't think it would be a matter  
7 of chance, it's just I think one view of it is well, it's  
8 just white flight that has produced a very segregated  
9 city in Milwaukee and it's the individual decisions of  
10 white residents who decided to move out after Milwaukee  
11 integrated its school district. And so the  
12 discrimination that makes it so keen and pointed is  
13 really the decisions by the white residents who left, not  
14 by the government that integrated the schools.

15 MR. KAUL: And Your Honor, I would disagree with  
16 I guess that characterization of the white flight for two  
17 reasons: First of all, what the history shows is that  
18 the government played a role in creating segregated  
19 communities in Milwaukee and lots of other places and so  
20 the day that those laws are struck down and white flight  
21 occurs, to attribute that entirely to private  
22 discrimination when the government has created the system  
23 which segregation is expected and people act accordingly  
24 we think is to undersell the government's role in that  
25 white flight.

1 And secondly, cities were actively playing a role,  
2 as I mentioned before, in restrictive zoning practices  
3 that helped foster this sort of discrimination. To the  
4 extent that there's state action that's bound up in that  
5 discrimination that those developments that have resulted  
6 in disparities, that is a history that the state is  
7 responsible for.

8 The other thing I would note, Your Honor, is this is  
9 not a case in which we're asking the government to remedy  
10 something, some disparity. We're asking that these laws  
11 that the state itself has passed and that are imposing  
12 these disproportionate burdens be struck down. So  
13 there's clear state action in the adoption of these laws  
14 and the policies that are furthering these disparities.  
15 So for both of those reasons, I think we think that  
16 there's clearly a direct linkage for the state here.

17 THE COURT: Okay.

18 MR. KAUL: I next wanted to mention, Your Honor,  
19 the lack of state interest which I'll cover briefly. But  
20 in many cases, the state's interest in these provisions  
21 are paltry and in some cases there just aren't any. Some  
22 of the provisions are reportedly justified by the goal of  
23 deterring fraud, but Dr. Minnite will testify, and she's  
24 probably the country's leading expert on voter ID, that  
25 there is virtually no voter fraud and that voter

1 impersonation fraud, the kind that Voter ID Law is  
2 relevant to, is even rarer than that. Dr. Hood --

3 THE COURT: And before you -- just to help me  
4 understand what you're going to tell me the legal  
5 framework is, it seems to me that the *Frank* decision is  
6 way more than unequivocal about the idea that the state  
7 has an interest in preventing voter fraud and that Voter  
8 ID Law diminishes the opportunity for impersonation fraud  
9 and thereby increases the confidence in elections and  
10 that's just a fact of life that has been decreed by the  
11 United States Supreme Court and so we have to live with  
12 it is kind of the way I view it. So we can debate how  
13 significant the problem is, but it seems to me that the  
14 proffered framework and the *Frank* loss on proffers makes  
15 it pretty clear that I have to take it as a given, as a  
16 matter of established law in the area that impersonation  
17 fraud is a problem and that the state has an interest in  
18 preventing it and that the voting ID mechanism is an  
19 appropriate way of doing that.

20 MR. KAUL: And Your Honor, I think that you are  
21 correct that that's what those decisions say in large  
22 part and that some weight has to be given to this  
23 interest. So with respect to the fraud interest, it's  
24 not our contention that there is no interest in light of  
25 those decisions. We think the evidence will actually

1 show that there is no interest, but the Court is, of  
2 course, bound by what those decisions said.

3 The question though we think is how much weight does  
4 that interest have to be given and what the testimony  
5 will show is that it really shouldn't be that much. And  
6 the reason is there's just simply almost no voter  
7 impersonation fraud. And I would note that to the extent  
8 that voter impersonation fraud is given significant  
9 weight, we've got a few cases of it. By that same logic,  
10 these cases of disenfranchisement I've been talking about  
11 which far exceed the numbers of the cases of voter  
12 impersonation fraud, that also has to be given very  
13 significant weight because the impact on a voter being  
14 disenfranchised is exactly the same in terms of the total  
15 tallies of a voter who commits fraud.

16 And so first of all, the question is how much weight  
17 does it get? And the evidence is going to show that the  
18 Court should give it as little as possible given those  
19 decisions. And secondly --

20 THE COURT: Whatever you think I can get away  
21 with within the framework that the Seventh Circuit has  
22 set up for me.

23 MR. KAUL: That would be my position, Your  
24 Honor.

25 THE COURT: I thought it would be.

1           MR. KAUL: But the other factor here, and this  
2 is what's really different from *Crawford* and to some  
3 extent *Frank*, is the evidence of the burden which is  
4 being balanced against that is fundamentally different  
5 here than it was in those cases. In *Crawford*, Justice  
6 Stevens' opinion is clear that there was virtually no  
7 evidence presented in the record about the burden. And  
8 even in *Frank*, as I mentioned before, there are now  
9 material changes in a lot of different ways about the  
10 evidence that this Court has before it than what the  
11 *Frank* court had.

12           And here is another piece of evidence with respect  
13 to fraud that neither of those courts had. I mentioned  
14 before that the IDPP is being run by trained  
15 investigators, fraud investigators. These are people  
16 investigating -- individuals who have come in and said "I  
17 need an ID" but they don't have documentation. You'll  
18 hear from Susan Schilz, who's the head of that unit.  
19 She's testified that there is not a single case of fraud  
20 that she has seen, despite the fact that she's trained to  
21 look for this and that there have been extensive reports  
22 run for these people applying.

23           And one other thing on that, Your Honor. This new  
24 rule that has been issued exposes to some extent the  
25 pretext that fraud is. I'll tell you why: Voters who

1 are in the IDPP process are now given free temporary  
2 voter IDs even though the state claims that it doesn't  
3 know whether it can verify their identity. So these  
4 individuals are now given a pass to go and vote with  
5 their ID, to cast ballots for -- these are two-month  
6 passes. Well, if the state really thinks these people  
7 are committing fraud and doesn't know who they are, why  
8 are they being permitted to vote? It just doesn't make  
9 sense.

10 Now, the elimination of weekend and evening early  
11 voting hours has been justified on the grounds that it  
12 promotes uniformity. But as Kevin Kennedy acknowledged  
13 in his deposition, that just isn't the case. Cities  
14 continue to have vastly different hours for early voting  
15 than they have -- than from each other. So Milwaukee or  
16 Madison has full hours, whereas a lot of small towns have  
17 hours by appointment only or a couple hours a week or  
18 that sort of thing. So uniformity just doesn't relate to  
19 this change. It's just a narrow window.

20 Other provisions have been justified on the grounds  
21 that they make election administration more efficient or  
22 more effective. But you'll hear from the chief election  
23 officials in Madison and Milwaukee and they'll testify  
24 that a lot of these provisions have made election  
25 administration more difficult. Some of the provisions



1 were also ones that the clerks have the option of  
2 exercising. So clerks didn't have to fax or email  
3 ballots to voters before. They could if they wanted to.  
4 So eliminating that doesn't make their jobs easier, it  
5 just takes away the option.

6 And last, you'll hear evidence that there's  
7 significant confusion among election officials, poll  
8 workers, among voters that result from all these changes  
9 in the law and that that also makes election  
10 administration more difficult.

11 Last, Your Honor, I want to talk about what actually  
12 I think has become one of the key questions that this  
13 case raises which is why these provisions were enacted in  
14 the first place. Why did the State of Wisconsin, which  
15 was a national leader in election administration, make  
16 about 15 changes to its election laws in less than four  
17 years? Why, with no evidence of voter impersonation  
18 fraud, did the state enact a Voter ID Law that at the  
19 time of its passage was the most restrictive in the  
20 country? Why in the wake of significant problems with  
21 aggressive election observers, particularly in minority  
22 communities, did the state pass a law that moved election  
23 observers closer to voters? And why, despite Milwaukee's  
24 repeated requests for the opportunity to open additional  
25 early voting locations and clear evidence of long lines

1 that voters in that city have had to wait in to cast  
2 ballots, does the state refuse to allow municipalities to  
3 open additional early voting locations?

4 And Your Honor, we would submit that those questions  
5 answer themselves. Beyond this onslaught of restrictive  
6 measures by the way -- actually before I touch on that,  
7 let me just briefly add one point. There is case law  
8 that indicates that discriminatory impact by itself is  
9 not enough to establish discriminatory intent. So if  
10 you're considering the Voter ID Law on its own and it has  
11 a discriminatory impact -- finding -- inferring from that  
12 that there's discriminatory intent is a bridge too far  
13 courts have found. But what's different here is that  
14 there's not one provision that has a disparate impact.  
15 There's provision after provision after provision and  
16 it's the accumulation of those provisions that provides  
17 powerful evidence that this disparate impact was not an  
18 accident, that it was a purpose of this set of provisions  
19 that the Legislature has passed. And it's a disparate  
20 impact on minorities and it's a disparate impact on young  
21 voters.

22 Beyond that onslaught of restrictive voting  
23 measures, the state's operation of the IDPP provides  
24 powerful evidence of discriminatory intent. And this is  
25 a confidential exhibit we'll pull up. This is one the

1 Court has seen before. As I discussed earlier, this  
2 photograph of the denied petitioners makes abundantly  
3 clear that there are staggering racial  
4 disproportionalities in the IDPP. It's so extreme that  
5 it calls to mind Justice Frankfurter's statement in  
6 *Gomillion v. Lightfoot* where all but a few black voters  
7 had been carved out of the boundaries of Tuskegee,  
8 Alabama. And the Justice wrote that if the allegations  
9 in that case held up, the conclusion would be  
10 irresistible, tantamount for all practical purposes to a  
11 mathematical demonstration that the legislation was  
12 solely concerned with segregation of voters. And that's  
13 similar to the point that I was making which is once the  
14 disproportionality becomes so extreme, the inference  
15 changes. And here there's more than just the racially  
16 disparate impacts and a recap of the IDPP's history  
17 demonstrates that. And this can be public, Your Honor.

18 THE COURT: Okay.

19 MR. KAUL: On June 15 of 2015, the DMV began  
20 denying petitions. Of the first 14 denials, all of them  
21 were of blacks or Latinos. On January 11, 2016, Dr. Hood  
22 served his expert report for the defendants in this case  
23 and he argued that the IDPP provides a point of  
24 mitigation to the state's Voter ID Law.

25 On January 29, Kristina Boardman, who is now the

1 administrator of the DMV was deposed in a Rule 30(b)(6)  
2 deposition, and she acknowledged in that deposition that  
3 had she had no dispute that several of the people who  
4 were in the IDPP were citizens; that they had not gotten  
5 IDs. A few days later in the opposition to the motion  
6 for summary judgment, we provided notice that we'd be  
7 moving to reinstate claims based on the state's  
8 implementation of the IDPP. As of February 2nd, 21 of  
9 the 23 denials, or 91 percent, were of blacks or Latinos.  
10 And what followed was a frenzy of IDPP-related activity  
11 that was transparently designed not to actually ensure  
12 that eligible voters were able to vote, but to cast the  
13 IDPP in the best light by the time of trial so that the  
14 Voter ID Law could survive this litigation.

15 On February 24th, we filed our motion to reinstate.  
16 On March 9th, senior DMV officials had a meeting to  
17 discuss a brand-new policy of paying fees to obtain vital  
18 records in certain cases. That reversed what had been  
19 DMV practice of not paying fees for a year-and-a-half,  
20 and that was two days after those senior DMV officials  
21 had met with legal counsel.

22 On March 18th, the motion to reinstate in this case  
23 was granted. On April 1st, DMV then sent a letter to  
24 approximately 15 petitioners offering to pay for needed  
25 vital records if the petitioners "provide information

1 needed to make the request." Well, the evidence will  
2 show that DMV knew exactly what documents some of those  
3 petitioners needed. They could have requested them  
4 itself, but it didn't. Instead it asked the petitioners  
5 to provide information that already had been provided.  
6 In other cases, the problem couldn't have been resolved  
7 simply with payment for a vital record.

8 To provide one example, the woman I mentioned before  
9 who's been waiting over 600 days to receive an ID, she's  
10 been waiting because Maryland won't verify her birth  
11 records without payment of a fee. And this goes to the  
12 first point, Your Honor. The DMV until recently has  
13 refused to pay that fee. But again, instead of simply  
14 paying, the DMV has said she needs to tell them what she  
15 needs.

16 One petitioner needed a photo ID, the very document  
17 she was trying to get to obtain a birth certificate. She  
18 got one of these letters. Payment is not going to help  
19 her. And it's also not clear at all why these  
20 petitioners received this offer, but not other  
21 petitioners who also potentially could have benefited.  
22 And perhaps most tellingly as of the time of the last DMV  
23 deposition in this case, the state hadn't even identified  
24 a source of funding for this program.

25 The DMV's processing of applications has also

1 changed significantly during this most recent period.  
2 The evidence shows that from February 1st to May 13th,  
3 DMV, which we had criticized for having backlogs, reduced  
4 the number of suspensions from 74 to 36. The DMV did  
5 that in significant part by simply converting those  
6 suspensions into denials. So 38 people during the period  
7 from February 19 to April 26 were issued letters telling  
8 them that their voter photo ID request, their right to  
9 vote, was denied.

10 And one of the most striking things that the IDPP  
11 files demonstrate, which Mr. Spiva mentioned this  
12 morning, is that in at least a few instances, the DMV has  
13 simply manipulated its data to make its IDPP statistics  
14 look better.

15 There are three separate petitioners who received  
16 denial letters from the DMV. Those petitioners  
17 subsequently went out and they tracked down their records  
18 and they were able to get an ID because they had gone  
19 through the process of doing that. At least one of them  
20 paid for his records. In each case, the petitioner's  
21 file had been listed as a denial by the DMV in its  
22 production to us on April 19. But in this recent  
23 production which came in last Friday, those petitioners  
24 had been moved to the canceled folder and they were  
25 deleted from the DMV's running tally of denials in the

1 production that was provided to us last Friday.

2 This next one, I believe, needs to be confidential,  
3 Your Honor.

4 THE COURT: Okay.

5 MR. KAUL: I mentioned earlier that two women  
6 died while waiting for their IDs. In the case of one of  
7 the women, the file shows that CAFU recommended that her  
8 petition be denied but that no letter be sent. But  
9 Kristina Boardman, the top official at DMV, intervened  
10 and she asked that the women who died be classified  
11 instead as a customer-initiated cancel. And this is  
12 another example where I was mentioning absurdity is now  
13 becoming part of the code. This is now part of the DMV's  
14 new policy, that people who die while waiting to their  
15 IDs will be listed as customer-initiated cancellations.

16 The Governor's office got involved during this  
17 period of frenzied activity as well. In early to  
18 mid-April, Kristina Boardman, again who was then the  
19 administrator of the DMV, went to the Governor's office  
20 -- and we can switch back to the public setting, I'm  
21 sorry -- and she learned that consideration was being  
22 given by the Governor's office to the issuance of  
23 temporary IDs. On April 18, Governor Walker approved the  
24 statement of scope for an emergency rule relating to the  
25 IDPP. And then just last week Governor Walker approved

1 the emergency rule.

2 As I mentioned before, the finding of emergency that  
3 justified this rule was that under the IDPP as it had  
4 operated for over a year-and-a-half, qualified applicants  
5 may not be able to obtain voter ID with reasonable effort  
6 in time for the upcoming elections. And information  
7 about this tinkering with the IDPP continues to drip out.  
8 Last Friday we received DMV's new guidance and other  
9 materials as well as updated and new documents. What  
10 this history shows, Your Honor, is that the state  
11 government at its highest levels knows exactly what's  
12 going on with this program; that eligible voters, almost  
13 all of whom are black or Latino, have been denied the  
14 right to vote and almost certainly will be denied the  
15 right to vote again in the future. And rather than  
16 eliminating the system and rethinking what it is that  
17 we're doing here, the state has instead chosen to tinker  
18 with this bureaucracy of voter suppression.

19 And this isn't the first time that this has  
20 happened. On July 31, 2014, the State Supreme Court  
21 addressed the constitutionality of the Voter ID Law under  
22 state law. And in that decision, the Court found that  
23 the Voter ID Law as it had been operating constituted a  
24 *de facto* poll tax. But the court avoided that issue by  
25 construing state law to require issuance of voter IDs



1 without requiring documents for which an elector must pay  
2 a fee to a government agency. At the time, the *Frank*  
3 case was pending before the Court of Appeals. An  
4 argument was scheduled for September 12, 2014. Well, the  
5 day before that argument, on September 11, 2014, Governor  
6 Walker approved the emergency rule that created the IDPP  
7 and the Seventh Circuit's ruling specifically pointed to  
8 that development, which it characterized as requiring  
9 officials to get birth certificates or other qualifying  
10 documents themselves for persons who asked for that  
11 accommodation on the basis of hardship. So just as is  
12 the case here, the state in 2014 made a last-minute  
13 change to the voter ID regime in an effort to improve its  
14 litigation position. The difference is that we have now  
15 seen how these last-minute changes work out in the form  
16 of the almost cartoonishly unconstitutional IDPP and  
17 there's no reason at all to think that the state's new  
18 changes are anything more than an attempt to prevent the  
19 unconstitutional effects of the state's Voter ID Law for  
20 being uncovered for just long enough to survive the  
21 appeal in this case.

22       So taken together with the state's unrelenting  
23 effort to enact laws that make it harder to vote, there's  
24 a powerful case here for drawing an inference of  
25 discriminatory intent. But this is the extraordinary

1 case, Your Honor, in which a finding of discriminatory  
2 purpose can be based on more than just inferences.

3 You're going to hear momentarily from Todd Allbaugh,  
4 who was the Chief of Staff to Dale Schultz. He will  
5 testify that in the final caucus meeting before passage  
6 of the Voter ID Law, multiple state senators argued in  
7 favor of passage of the Voter ID Law because of the  
8 effect that it would have on college campuses and in  
9 communities in Milwaukee and that they argued in favor of  
10 the law because it would help Republicans win elections.

11 Glenn Grothman made a statement which we'll play  
12 this morning in which he acknowledged that he thought the  
13 Voter ID Law would help Republicans in the upcoming  
14 election. And Alberta Darling made a similar statement  
15 years ago. And of course the Court has Dale Schultz's  
16 statement which corroborates those other two statements.

17 On the Senate floor itself with respect to the bill  
18 about eliminating weekend and evening early voting, Glenn  
19 Grothman was clear that his purpose was to reign in  
20 cities like Milwaukee and Madison. He argued that that  
21 was necessary for uniformity, but as the evidence will  
22 show, there is no uniformity. So there is going to be in  
23 this case clear, direct evidence of discriminatory intent  
24 corroborated by lots of other evidence from which an  
25 inference of discriminatory intent can be drawn.

1           Your Honor, at the start of my remarks I quoted  
2   President Johnson's address just before the introduction  
3   of the Voting Rights Act. When he signed that  
4   legislation, he declared that the vote is the most  
5   powerful instrument ever devised by man for breaking down  
6   injustice and destroying the terrible walls which  
7   imprison men because they are different from other men.  
8   That Act, like the 15th Amendment and 26th Amendment,  
9   guaranteed that the right to vote will not be denied or  
10   even abridged or curtailed or reduced on account of race  
11   or age. Yet in enacting the provisions we're challenging  
12   in this case, the state has done exactly that.

13           Your Honor, Wisconsin is simply a better place than  
14   these laws suggest. They're an embarrassment and they're  
15   a stain on the history of the state, pure and simple. We  
16   ask not only that you strike them down as soon as  
17   possible but that you make the finding which will be  
18   compelled by the evidence in this case that those laws  
19   were motivated by discriminatory intent.

20           Thank you, Your Honor.     (9:23 a.m.)

21           THE COURT: Thank you. And who will have the  
22   opening statement for the defendants?

23           MR. KAWSKI: I will, Your Honor. We're just  
24   going to get our PowerPoint slides up and I'll be ready  
25   to go as well.

1 THE COURT: And will all of yours with publicly  
2 visible?

3 MR. KAWSKI: All public. Good morning, Judge  
4 Peterson. My name is Clay Kawski. I'm an Assistant  
5 Attorney General for the Wisconsin Department of Justice.  
6 With my other colleagues from Justice, we're here to  
7 present the state's case.

8 Astounding. Astounding. That's the word that the  
9 plaintiffs' expert, Dr. Barry Burden, used to describe  
10 the turnout for the April 2016 election. He was quoted  
11 by the Milwaukee Journal Sentinel saying that the turnout  
12 number was astounding. Yet every single one of the laws  
13 that is challenged in this case was in place for that  
14 election, including the voter ID requirement. We're  
15 going to show that because of actual verifiable turnout  
16 numbers, facts and data, that we can show that these laws  
17 should be upheld.

18 This next slide represents the plaintiffs' case. As  
19 you know, there's a saying that you've thrown in  
20 everything but the kitchen sink. This time the  
21 plaintiffs throw in the kitchen sink too. They have more  
22 than 60 claims that they've leveled against state laws  
23 under six different theories, including both  
24 constitutional theories and Voting Rights Act theories.  
25 As the Court knows, any one of these claims could be the

1 subject of its own case. But yet the plaintiffs made a  
2 scattershot approach and their evidence will be scattered  
3 all over the board. We're going to hear from individual  
4 voters; we're going to talk about their circumstances,  
5 many of which are just anecdotal, could not be  
6 replicated, one-in-a-million type situations. And the  
7 plaintiffs are going to ask the Court to strike down  
8 every one of these laws on its face based on anecdotal  
9 evidence, not evidence of why it spread systemic burdens  
10 created by these laws.

11 The theme that we'd like to advance here is that  
12 there needs to be proof based on facts, not speculation.  
13 And so where possible, the state's case is going to show  
14 a before and after, before the laws were implemented and  
15 after what the effects were. You will see that the  
16 plaintiffs' experts in particular have tried to avoid  
17 this where possible because the numbers do not favor  
18 them.

19 THE COURT: I take your point about the turnout  
20 in the 2012 election. But obviously there are a lot of  
21 variables that went into that. And so the question is  
22 how are we going to isolate the impact of the changes in  
23 the voter regime from the effects that are driven by  
24 Wisconsin being a swing state in that election?

25 MR. KAWSKI: Right. It's difficult. That's why

1 we're going to focus mostly on the 2010 to 2014  
2 comparison. For the 2016 election, it's difficult to  
3 make a comparison because the Voter ID Law has only been  
4 in place for three elections: That would be the February  
5 2012 primary, the February 2016 primary, and this most  
6 recent April election. So in some respects, plaintiffs'  
7 experts cannot help prove their case. There aren't  
8 sufficient data points with regard to the Voter ID Law.

9 With regard to these other laws, in particular the  
10 absentee voting laws, both of the state's expert  
11 witnesses will testify how turnout -- and I'm going to  
12 get to a slide about this -- but how turnout went up for  
13 all groups for those elections in using in-person  
14 absentee voting.

15 The first major challenge here, of course, deals  
16 with the Vote ID Law and Mr. Kaul has summarized the  
17 plaintiffs' case with regard to that law. As the Court  
18 is aware, it's bound by *Frank v. Walker*. And Judge  
19 Peterson, you've already illustrated that you know that  
20 case cold. I think that's very important here because  
21 *Frank v. Walker* is going to guide and filter all of the  
22 evidence in this case and it's going to make the Court's  
23 decision very easy.

24 In the *Frank* case, the Court dealt with Section II  
25 and constitutional claims that dealt only with the Voter

1 ID Law, but it also made statements like registering to  
2 vote is easy in Wisconsin. That would just as easily  
3 apply to some of the other claims in this case. And as  
4 the Court knows, the Court in *Frank* made some very broad  
5 and sweeping statements about how Section II applies and  
6 about how the constitutional burden's test applies. And  
7 so again, *Frank* is a very important precedent, as the  
8 Court knows, and it's going to have to work with *Frank*  
9 and the *Crawford* decision as it views all of this  
10 evidence.

11 With regard to voter ID, the state has been issuing  
12 free state ID cards provided by the DMV. I did not hear  
13 very much about that from Mr. Kaul, and that's because  
14 the statistics are pretty staggering. Over 420,000 free  
15 state ID cards have been issued since July 2011. That  
16 includes 127,000 brand-new products for people that did  
17 not have a state ID card before. When we compare that to  
18 the number -- you heard a lot, Judge Peterson, about the  
19 IDPP and you're going to get tired of hearing about it by  
20 the end of the second week of this trial. The IDPP is a  
21 very small number of individuals who are trying to get  
22 free IDs. As of last week, the total number of people  
23 who were denied an ID in that process is 52. When you  
24 compare 52 to the 420,000 free state ID cards that were  
25 issued for the purpose of voting, that's .012 percent.

1 Yet the plaintiffs are asking this Court to strike down  
2 the Voter Photo ID Law on its face as to every person.

3       You're going to hear testimony from the expert  
4 witnesses in this case and it will deal primarily with  
5 the two most common forms of a voter ID and those would  
6 be driver licenses and state ID cards. There are, of  
7 course, other forms and it's difficult to analyze those  
8 other forms such as passports, military IDs and so forth.  
9 Some other courts in other states have been able to look  
10 at those forms as well and the experts will testify a  
11 little bit about that, but the expert testimony is going  
12 to focus mostly on these two most common forms.

13       And so I put up here on the screen what the evidence  
14 is going to show in comparison to the *Frank v. Walker*  
15 decision. In *Frank v. Walker*, that decision came down in  
16 2014, September. But it was based on data in which  
17 experts analyzed the number of registered voters who  
18 lacked one of these two most common forms and at that  
19 time the district judge made a finding of 300,000 people  
20 who registered to vote in Wisconsin lacked ID, or 9  
21 percent of that population.

22       Plaintiffs' expert, Dr. Mayer, is basing his  
23 findings on fall 2015 data, so we didn't run the data  
24 again this spring. That's the most recent analysis. And  
25 the number has gone down. As you can see, there's a



1 trend away from that lack of possession. The state's  
2 expert is going to opine that the number is 153,316 or  
3 4.54 percent of registered voters lack one of these two  
4 most common forms. And again, that doesn't consider  
5 people who would not have one of these forms but might  
6 still have a passport, a military ID or one of the other  
7 forms. When you look at these numbers, what you see is a  
8 trend, and you also see that it's going to be very  
9 difficult to strike down the law on its face based on  
10 these kind of statistics when you look -- when you see  
11 that *Frank* did not strike the law down -- the *Frank* court  
12 did not strike the law down at a 300,000 and 9 percent  
13 number, and here we're either dealing with on the  
14 plaintiffs' best day 283 and 8.4 percent, or on their  
15 worst day 153,316 and 4.54 percent.

16 As I already mentioned, the ID petition process, and  
17 there are new rules that went into effect on May 13. I  
18 find it very ironic that plaintiffs are characterizing  
19 this as a nefarious intent to put out these rules close  
20 to trial. The state is trying to help people get ID  
21 cards. That's what's going on. That's what these --  
22 these rules are meant to streamline the process and help  
23 people who are working through the process get a card  
24 that they can use for voting.

25 There were four new plaintiffs added in this case,

1 and they were added, as Mr. Kaul pointed out, with the  
2 March 18 reinstatement of the Section I constitutional  
3 claims against the Vote ID Law. Those plaintiffs are  
4 Johnny Randle, David Walker, David Aponte and Cassandra  
5 Silas. They were all issued a free state ID card receipt  
6 and that can be used for voting. So to say that any of  
7 these plaintiffs who are individual voters are currently  
8 injured is not correct. All of the plaintiffs that are  
9 not --

10 THE COURT: To be clear, they get the receipt,  
11 but it's good for just 60 days; correct?

12 MR. KAWSKI: Correct. And if they're unable to  
13 get the receipt within 50 days -- unable to get an ID in  
14 the process within 50 days, that will automatically  
15 renew. So they will still be able to vote, and that's  
16 what you're going to hear the testimony from DMV about  
17 that issue.

18 The next major area of challenge leveled deals with  
19 absentee voting and there's a lot of focus on the use of  
20 in-person absentee voting. In-person absentee voting is  
21 just one of the types of absentee voting in Wisconsin. I  
22 did not hear Mr. Kaul mention the other one at all and  
23 that is the mail-in absentee voting option. I'm going to  
24 talk a little about that, but first I'd like to point out  
25 what I already said about the in-person absentee voting

1 and what the experts are going to say.

2       The state's experts will show that comparing 2010 to  
3 2014, that's pre-implementation of the absentee voting  
4 laws to 2014 post-implementation, that in-person absentee  
5 turnout is up for all groups. That means it's up for  
6 whites, it's up for Hispanics, and it's up for African  
7 Americans. So it's very difficult to see how the law is  
8 having these kind of disparate impacts on these groups of  
9 voters when turnout continues to rise, both pre- and  
10 post-implementation.

11       I should point out too that there's a national trend  
12 toward the use of absentee voting, and that's something  
13 that -- I think what's happening is more groups are  
14 encouraging voters to use it. Nothing about what  
15 Wisconsin has done in passing these laws has stopped that  
16 trend here.

17       THE COURT: I guess here is the problem I have.  
18 I take your point, and if we had a clear decline in voter  
19 turnout and the only apparent difference between the 2010  
20 and 2014 election were the change in voting law, we might  
21 be inclined to draw the inference that the law caused it.  
22 But voting is such a complicated process here and the  
23 political background seems to me to be the more obvious  
24 difference over the course of these elections. And I get  
25 you, you've picked the two midterm elections, but I'm

1 just not eager to embrace the idea that just because  
2 voter turnout goes up over this period that it means that  
3 the laws are not having the effect that the plaintiffs  
4 say it is, which is to suppress the voting of certain  
5 constituencies.

6 And let's just put our cards on the table here. It  
7 seems to me almost an article of faith on both sides of  
8 the issue. And correct me if I'm wrong about your  
9 position here, but Republicans and Democrats alike seem  
10 to assume that the Vote ID Law and changes in voter  
11 registration requirements have an impact on voter  
12 turnout; so...

13 MR. KAWSKI: That's right. Depends which side  
14 of the aisle you're on; right? I mean Republicans would  
15 say that it increases turnout because people have more  
16 confidence in elections.

17 THE COURT: Well, not uniformly. You've got the  
18 statements by Mr. Grothman and all that and it does seem  
19 to me to be -- the court cases too seem to acknowledge  
20 that whatever new requirement is imposed will have an  
21 impact on whether people vote.

22 MR. KAWSKI: This is the best evidence we have  
23 of this phenomenon. The plaintiffs aren't going to be  
24 able to show that --

25 THE COURT: Whether it's the best evidence we

1 have I think is sharply contested at least.

2 MR. KAWSKI: It is. I think what's going to be  
3 missing from the plaintiffs' case, Your Honor, is that  
4 they're not going to be able to say without these laws  
5 turnout would have gone up this much. They can't show  
6 that. They're going to hypothesize by that, but they  
7 can't show it. This is the actual numbers, Your Honor.  
8 These are the actual counts. That's the best evidence.

9 THE COURT: Yeah. We'll see what the evidence  
10 is.

11 MR. KAWSKI: It's definitely debatable, but Your  
12 Honor is right on top of the point. As I mentioned  
13 before, there are a few different ways you can vote  
14 absentee --

15 THE COURT: And let me just make sure that I  
16 understand your position is that you're saying that these  
17 -- the set of laws that are challenged in this case do  
18 not have the effect of reducing voter turnout.

19 MR. KAWSKI: Correct.

20 THE COURT: Okay.

21 MR. KAWSKI: There's the absentee-by-mail  
22 option. It's an option that I think is a great one for  
23 people if you want to avoid lines, save time and money,  
24 and here's how it works: A person can fill out an  
25 absentee ballot application. They check a box that says

1 I want to receive all ballots for that year sent to my  
2 home. They can even send it in by email. Of course they  
3 have to submit a copy of their voter ID with it, so if  
4 they have a copy of their driver's license, they have to  
5 make a photocopy. So that can be an inconvenience for  
6 some people.

7       However, the fact that you can do this definitely  
8 mitigates many of plaintiffs' claims with regard to  
9 in-person absentee voting lines, unavailability of it on  
10 weekends. You won't hear the plaintiffs talk about this  
11 option at all. It's the elephant in the room with regard  
12 to absentee voting. But it's a great option for people.  
13 And you can't forget there are really three options for  
14 people voting: You have in-person absentee, that's what  
15 some people call early voting; you have mail-in absentee,  
16 from your own home; and then you can vote on Election  
17 Day. We can't ever in this case forget that you can vote  
18 on Election Day.

19       Of course, the case is about some of the impediments  
20 that plaintiffs believe are occurring on Election Day,  
21 but these are always options. Someone who is an  
22 in-person absentee voter is putting themselves into that  
23 mix and trying to convenience themselves. That needs to  
24 be at the top of your mind as you consider those claims.

25       THE COURT: And let me ask, this is kind of --

1 strikes me as sort of a commonsense explanation. But if  
2 voting -- absentee voting by mail is so easy, why isn't  
3 it more popular?

4 MR. KAWSKI: I think people don't know about it  
5 and I'm hoping that this trial will really make people  
6 know about it more because it will be reported in the  
7 news.

8 The next major area, legal challenge, type of  
9 challenge deals with voter registration. And Wisconsin  
10 has two things that a lot of states -- some states don't  
11 have, and you'll hear testimony about which ones do and  
12 which ones don't. The acronyms are SDR and EDR.  
13 Same-day registration refers to registering during the  
14 in-person absentee voting period. Election Day is, of  
15 course, on Election Day. And a lot of what I think the  
16 voter registration claims go to in this case is about  
17 documentation issues.

18 So the plaintiffs are complaining that being  
19 required to show a document to prove your residence is  
20 very problematic for certain groups of people. What the  
21 state is going to show is that there are robust options  
22 to prove one's residency, and this next slide is  
23 intentionally hard to read because it lists the  
24 categories of all the different types of documents that  
25 can be used to prove one's residency. I have highlighted

1 only two. The top one is a current and valid Wisconsin  
2 driver license or state ID card. And as I already  
3 mentioned earlier, the number of people that have a  
4 driver license or ID card is the vast majority of  
5 Wisconsinites.

6 The other document issued by a government unit, what  
7 that describes is what some people will testify in this  
8 case as somewhat of a workaround to the proof of  
9 residence requirement. If someone contacts their  
10 municipal clerk and tells them that I need a document to  
11 register to vote, the municipal clerk can send them a  
12 letter and they can bring that letter into the municipal  
13 clerk's office and use it to register to vote. So this  
14 is an option that for someone who has not -- otherwise  
15 has a utility bill or any other document that -- in their  
16 possession that can be used, a lease, this is always an  
17 option. And it's a very common option that municipal  
18 clerks are using to make sure that people have a proof of  
19 residency document.

20 Another thing I'll point out, for young voters,  
21 Wisconsin since 2012 has allowed electronic versions of  
22 these documents. So if a young voter is in line with  
23 their tablet or smartphone, they can pull up their cell  
24 phone bill, they can pull up their utility bill and show  
25 it to register to vote at the polls on Election Day.



1 That list was not comprehensive, it was just categories  
2 of the most common types of documents used by voters to  
3 prove residency.

4 And so you're going to hear a number of witnesses  
5 who will testify about either there were registration  
6 deputies that had to turn away people because they lacked  
7 a document. What you won't hear is whether those voters  
8 actually had a document, they'll just say that they came  
9 to me and I didn't have it that day. What you're going  
10 to hear from the Government Accountability Board  
11 witnesses is that if people are working together, the  
12 voter, the municipal clerk and sometimes the GAB working  
13 together, they can easily figure out a document that  
14 someone can use to register to vote.

15 The rest of the legal claims in the case have  
16 already been addressed by Mr. Kaul. They deal with  
17 things like election observers, straight-party voting.  
18 Our position is that there are state interests in the  
19 changes to these laws as well and that the Court will not  
20 hear evidence which would allow it to strike them down  
21 under the Constitution or Section II of the Voting Rights  
22 Act.

23 I could wrap here, but I have -- there's one thing I  
24 want to address and that's a word on plaintiffs'  
25 allegations of intentional racial discrimination. These

1 are very serious claims and they require very concrete  
2 proof. The primary type of proof that the Court is going  
3 to hear is going to be filtered through an expert witness  
4 named Dr. Allan Lichtman. Dr. Lichtman also testified in  
5 the *North Carolina State Conference of the NAACP v.*  
6 *McCrory* case. A decision -- it was entered in that case  
7 by the district judge only a few weeks ago. And as the  
8 Court hears Dr. Lichtman's testimony and considers his  
9 report, it should consider the statements that the Court  
10 made about Dr. Lichtman. "The Court has substantial  
11 questions about his credibility and has difficulty  
12 relying on much of his testimony. His approach was  
13 single-minded and purposefully excluded evidence that  
14 contradicted his conclusions. At trial, Dr. Lichtman  
15 practiced a propensity to respond to questions not with  
16 responsive answers, but with nonresponsive arguments  
17 supporting his opinions. He also demonstrated a  
18 willingness to obfuscate when detail became important."

19 Again, these intentional racial discrimination  
20 claims are very serious allegations and they require very  
21 serious concrete proof. You're going to very likely as  
22 the first witness hear from Mr. Todd Allbaugh, who will  
23 testify about what he alleges are the nefarious motives  
24 of some legislators in 2011. My understanding is that he  
25 will not name names. He will not -- he will testify to

1 hearsay. But he will not be able to pinpoint who said  
2 these things. That is indicative of the type of proof of  
3 these claims of intentional racial discrimination. Maybe  
4 he will prove me wrong and maybe he will name names of  
5 who said these things. It's all hearsay.

6 In conclusion, Wisconsin elections are fair, easy to  
7 navigate, and open to all. As the state will prove  
8 through evidence, these laws are constitutional. They do  
9 not violate Section II of the Voting Rights Act.

10 I want to go back to *Frank v. Walker*. That decision  
11 has so many guideposts for the Court, Your Honor. And as  
12 you well know, the Court is bound by that decision. With  
13 regard to voter ID, with regard to registration, with  
14 regard to absentee voting and all the rest, *Frank v.*  
15 *Walker* is the guiding light here. For that reason, the  
16 Court should enter judgment for the defendants.

17 I'd be happy to answer any questions you might have.

18 THE COURT: Really one. I take your point. I  
19 agree with you that allegations that there's intentional  
20 racial discrimination here is a very serious one. But  
21 what is the kind of evidence that -- I know you describe  
22 it as concrete in particular -- but when I'm evaluating a  
23 legislative program like this, what is the kind of  
24 evidence that I should be looking for? Because commonly  
25 when I'm asked the question of whether -- a person that

1 obviously comes up most often in actual discrimination  
2 question and not constitutional litigation -- but when  
3 I'm asked the question about whether a particular law is  
4 motivated by racial discrimination, what is the evidence  
5 that I would find? I mean, I wouldn't expect to find  
6 legislators in this day and age actually avowedly  
7 expressing their purpose to discriminate.

8 MR. KAWSKI: You do see that in other states.  
9 You don't see it here.

10 THE COURT: Well, even in this day and age I  
11 wouldn't expect to see it even in what we regard as the  
12 places that are most vulnerable to it. But --

13 MR. KAWSKI: That's why these --

14 THE COURT: -- what am I supposed to be looking  
15 for? And if your position is that they have to say it,  
16 then fine, I'll look for that evidence. But I'm not sure  
17 that that's really the law.

18 MR. KAWSKI: Right. I think that clearly if  
19 they say it, then you have a problem; right?

20 THE COURT: Yeah.

21 MR. KAWSKI: We don't have that kind of evidence  
22 here. I don't think that -- I can stand here and try and  
23 hypothesize what plaintiffs might come up with. I only  
24 know what they're likely to present. And I can tell you  
25 the state's position is it doesn't clear the hurdle.

1 THE COURT: All right.

2 MR. KAWSKI: Thank you.

3 THE COURT: All right. Thank you. All right.

4 This is probably a good time to take a short morning  
5 break. We can get reorganized and then when we come back  
6 in 15 minutes, let's make it right at ten o'clock, the  
7 plaintiffs can call their first witness.

8 (Recess 9:45-10:00 a.m.)

9 THE CLERK: This Honorable Court is again in  
10 session. Please be seated and come to order.

11 THE COURT: All right. Are we ready to begin  
12 with the plaintiffs' case?

13 MR. SPIVA: Yes, Your Honor, Mr. Kaul will call  
14 the first witness.

15 MR. KAUL: We call Todd Allbaugh.

16 THE COURT: Very good.

17 **TODD ALLBAUGH, PLAINTIFFS' WITNESS, SWORN,**

18 DIRECT EXAMINATION

19 BY MR. KAUL:

20 Q Morning, Mr. Allbaugh.

21 A Good morning.

22 Q Would you please spell your last name for the  
23 record.

24 A Sure. An old German name. Allbaugh.

25 A-l-l-b-a-u-g-h.

TODD ALLBAUGH - DIRECT

1 Q And where did you grow up?

2 A Richland Center, Wisconsin.

3 Q And did there come a point in time when you got  
4 involved in politics?

5 A Yeah. I was probably what most people would  
6 consider a rather nerdy kid, grew up with a speech  
7 impediment with a cleft palate, and wasn't real popular  
8 as a kid growing up; thanks to some wonderful surgeons  
9 ended up being in radio later on in my life, so a credit  
10 to those physicians.

11 So in the fifth grade, my parents had just gotten --  
12 gone through a divorce and moved back to Richland Center;  
13 spent a summer in Appleton, Wisconsin, and to quote Harry  
14 Houdini, the greatest escape he ever made was from  
15 Appleton, Wisconsin. So no offense to people from  
16 Appleton, but came back to Richland Center. And in any  
17 event, Otis Scott's fifth grade class 1980.

18 Q Okay. So --

19 A Prebullet -- or preinternet and iPads, bulletin  
20 board material. So we had a competition, fifth grade, to  
21 make the best bulletin board to Democrats and Republicans  
22 and you could choose either side or he'd choose for you  
23 and my granddad on my dad's side was Republican. I'll be  
24 Republican. So went to the county fair that year, met  
25 Carol Clausius, the County Chairman for the Republican

1 Party at the time, and got a Ronald Reagan poster.

2 Incidentally, you know, talk about plaguerism, the slogan  
3 back in 1980 for Ronald Reagan was *Let's Make America*  
4 *Great Again*. So not so new these things that are being  
5 talked about today. I still have the poster.

6 Q So let me cut to the chase here. As you got  
7 involved, did you --

8 A Sorry.

9 THE WITNESS: Spent a lot of time around elected  
10 officials, Your Honor.

11 THE COURT: We have 63 witnesses, so I hope  
12 every witness doesn't have to take their biography up  
13 starting with the fifth grade.

14 THE WITNESS: I'll be brief.

15 BY MR. KAUL:

16 Q Let me ask you this: As you got older, did you work  
17 on campaigns?

18 A I did. Point is that it was something that I found  
19 my place in. I enjoyed it. I volunteered on numerous  
20 campaigns, first on Ronald Reagan's and Congressmen Steve  
21 Gunderson and U.S. Senator Bob Kasten's. First race was  
22 in 1980 putting up yard signs and the like, and ended up  
23 -- fast forward, ended up volunteering on former state,  
24 then Assemblyperson, Dale Schultz's campaign; met him at  
25 his first race in 1982, and ended up working all of his

1 subsequent races through his Senate career, state Senate  
2 career. Worked on -- helped run campaigns at Richland  
3 County for judges, district attorneys, city council  
4 members. Very active Republican Party politics for over  
5 30 years.

6 Q And I know some of the offices you mentioned are  
7 nonpartisan, but to the extent that the offices you  
8 worked on their races were partisan, which party's  
9 candidates did you work for?

10 A Always Republican.

11 Q Did you run for office yourself?

12 A I did. Back in -- well, I spent two stints on the  
13 city council in Richland County, a nonpartisan position.  
14 But then I ran in 19 -- excuse me, in 2004 for the State  
15 Assembly in the 96th Assembly District where I lost in  
16 the primary by about 1,500 votes and then was crazy  
17 enough to try it again four years later in the 50th  
18 Assembly District where I lost by 500 votes in the  
19 primary.

20 Q And what party's platform did you run on?

21 A Republican.

22 Q Did you work on the staff of any elected officials?

23 A Yes. My first paying job at the State Capitol was  
24 in 1982 for then newly State Senator Dale Schultz as a  
25 paid intern; then worked for him on and off during



1 college, ran his 1994 re-election campaign, went to the  
2 State Capitol as a full-time staffer. Then in 1995 was  
3 hired by former United States Congressman Scott Klug as a  
4 constituent liaison; worked my way up over the course of  
5 his last four years in Congress, became the district  
6 director overseeing the Madison office for the  
7 Congressman. And then ended up subsequently going back  
8 to Dale's office over the course of the next several  
9 years on and off. He likes to tell people he hired me  
10 five times but never fired me. I was kind of the Billy  
11 Martin of the Schultz office without having being fired.  
12 But ended up being his communication director, deputy  
13 Chief of Staff when he was the Senate Majority Leader for  
14 the State Senate Republicans in 2004 to 2007, and then  
15 most recently the last four years of his term was his  
16 Chief of Staff.

17 Q Okay. And for the court reporter's benefit, I'm  
18 going to ask you to do your best to slow down just a  
19 little bit.

20 A I apologize. I'm not as good as Nigel Hayes.

21 Q Now, were you a staff member for Senator Schultz  
22 during the 2011 legislative session?

23 A Yes, I was. I was his Chief of Staff.

24 Q And he was a member of the Republican caucus;  
25 correct?

TODD ALLBAUGH - DIRECT

1 A Correct.

2 Q And how did the 2011 legislative session compare to  
3 other times that you had experienced in politics?

4 A Unique. Never seen anything like it in my political  
5 career, my time at the Capitol. Of course, subsequent to  
6 the 2010 elections, that's when Act 10 hit and blew up.  
7 Nothing like it before.

8 Q Can you describe what the environment was like at  
9 the Capitol after Act 10 became public?

10 A After it became public? Yeah. At times chaotic in  
11 the sense that due to the couple hundred thousand  
12 protesters outside and inside the building, there were  
13 times when it literally was nearly impossible to work.  
14 There were certainly times during the Act 10 process  
15 where as Chief of Staff I came in, not on a regular  
16 basis, but there were a couple days in particular where  
17 the phone calls were so overwhelming that we literally  
18 couldn't get a call out. All four of our lines, hanging  
19 up there would be somebody there. And as Chief of Staff,  
20 there were a couple hours where I just said unplug the  
21 phones because we can't -- our fax machine would run out  
22 of the paper. We'd put two 300 reams or pages of reams  
23 in there and run out of paper because we were getting  
24 faxes from all over the country, not just from the  
25 Senator's district. And at one point during the peak of

TODD ALLBAUGH - DIRECT

1 Act 10 where they split the bill in two and it went to  
2 the floor, the hallways were so crowded that I literally  
3 could not get through the hallways.

4 Q And just to place us in context in time, this is  
5 early 2011; is that right?

6 A Yes. March/Aprilish.

7 Q Did you learn about any recall efforts around that  
8 time?

9 A Well, certainly after Act 10 became public and the  
10 demonstrations, the protests started, there were rumors,  
11 innuendos of recalls. I believe if memory serves, the  
12 first one to really or the first person to be targeted  
13 formally, I believe, was the Governor at the time and  
14 then subsequently there were state senators who were  
15 targeted during -- along the process as well.

16 Q All right. Let me ask you specifically about a bill  
17 that's commonly known as the Voter ID Bill or Act 23. Do  
18 you recall any meetings that you were in regarding that  
19 bill?

20 A Yes, several.

21 Q And do you specifically recall the last caucus  
22 meeting regarding that bill?

23 A Yes. Because it was the moment that in my own mind  
24 and heart decided that I could no longer continue in the  
25 future as calling myself Republican.

1 Q Can you describe in some detail what you recall from  
2 that meeting?

3 A Sure. It was, as you say, I believe the final  
4 caucus meeting before passage or vote of passage on the  
5 bill. We went into -- the Senate went into Senate  
6 Republican caucus, went into closed session meaning that  
7 only staff members, Senators could be there. No press.  
8 No -- what do you call -- pages, that lock the door. And  
9 the bill was being talked about. At the time, Senator  
10 Lazich was the chairwoman of the -- I believe it was  
11 called the Elections Committee. That might not be the  
12 formal title of the committee, but she chaired. But it  
13 was dealing with election law, that sort of thing. And  
14 the bill came up and there wasn't a lot of, shall we say,  
15 enthusiasm for it.

16 MR. MURPHY: Objection, Your Honor. This is  
17 hearsay.

18 THE COURT: I'll allow it. Go ahead.

19 THE WITNESS: There wasn't a lot of enthusiasm  
20 for the bill in the room at the time. And she got up out  
21 of her chair and she hit her fist on the or her finger on  
22 the table and she said "Hey, we've got to think about  
23 what this could mean for the neighborhoods around  
24 Milwaukee and the college campuses across this state."

25 MR. MURPHY: Renew my objection, Your Honor.

1 THE COURT: I'll give you a standing objection  
2 to it. I want to hear what it is and I'll consider what  
3 weight to give it. Go ahead.

4 BY MR. KAUL:

5 Q So what happened after that?

6 A And at that point there was kind of some rustle in  
7 the room, and I can't remember whether my boss made his  
8 comment directly after that comment by Senator Lazich or  
9 whether it was in the context of two or three senators  
10 talking at once, but my boss kind of put his hand up  
11 because -- actually the way the courtroom is set up, Your  
12 Honor, my boss was -- there's a dais in front of the room  
13 where the Senate Republican caucus is held and so the  
14 dais, it goes by the Senate Majority Leader and then kind  
15 of the Assistant Leader, who was Senator Grothman at the  
16 time, and then the president of the Senate, who was  
17 Senator Ellis at the time. And then from there it goes  
18 by seniority. And so the most senior senator sits  
19 closest to the Majority Leader and then all the way down  
20 to where the attorneys are sitting. That would be the  
21 most junior senators in the Senate Republican caucus.

22 So my boss was at the time the third ranking by  
23 seniority senator in the Senate Republican caucus, so he  
24 literally sat in this corner of the dais. And so Senator  
25 Lazich was, since she was a higher ranking senator as

TODD ALLBAUGH - DIRECT

1 well, she was on the dais as well as Senator Grothman  
2 obviously was because he was the Assistant Leader at the  
3 time. And so my boss said, "You know, guys" -- he put  
4 his hand up like this and he goes "You know, guys, I  
5 think we ought to think about here for a minute what  
6 we're talking about. Not just for our party, but for the  
7 people of this state." And at that point Senator  
8 Grothman cut him off and said "Well, you know what? What  
9 I'm concerned about here is winning and that's what  
10 really matters here. And you know as well as I do the  
11 Democrats would do this if they had the ability to use  
12 everything in their power to get things done, so we  
13 better get this done quickly while we still have the  
14 opportunity." With the -- well, I'll leave it there.

15 Q Now, had you participated in previous Senate caucus  
16 meetings?

17 A Yes.

18 Q Had you heard the various Senators make a variety of  
19 different statements during those meetings?

20 A On this particular subject or a bunch of subjects?

21 Q On this particular subject.

22 A Countless times.

23 Q So based on that experience, when Senator Lazich  
24 made her statement did you have an understanding as to  
25 what she meant by that?

1 A It was absolutely clear to me what it was and it was  
2 nothing short of voter --

3 MR. MURPHY: Your Honor, suppression.

4 THE COURT: It is. Sustained.

5 BY MR. KAUL:

6 Q Now, did you observe the reactions that other  
7 Senators in the room had to those statements?

8 A Yes, and it was -- I've characterized it as giddy  
9 and that's probably what bothered me so much is that they  
10 were talking about imputing people's constitutional  
11 rights and they were happy about it. Not all of the  
12 Senators, I need to make sure that the Court understands.  
13 There were Senators in the room who were ashen faced that  
14 were clearly disturbed by this, who were not  
15 participating in the happiness of it all, but there were  
16 other senators such as Senator Vukmir, Senator Hopper,  
17 you know who were -- you could tell they were happy about  
18 it. They were politically frothing at the mouth.

19 Q Now, can you explain why you decided to make --  
20 first of all, why do you remember this event so clearly?  
21 I think you touched on it before.

22 A Because it was the moment -- I had gone through a  
23 lot in my political career. When you are a member of a  
24 political party, when you work for an elected official,  
25 guess what, you don't always agree with them. I'm a

1 hunter. Scott Klug was not necessarily the most friendly  
2 person to the Second Amendment or gun rights during his  
3 time in Congress. He is a wonderful man. He is a person  
4 I believe in. I agree with him 95 percent of the time.

5 Dale Schultz I don't necessarily agree with 100  
6 percent of the time. I'm a gay man. I was a Deputy  
7 Chief of Staff and Communication Director during this  
8 ridiculous thing called DOMA, Defense Of Marriage Act. I  
9 had to sit there and defend the Republican Party on DOMA,  
10 and at the time a closeted gay man. I stayed with the  
11 party because I believed in the larger scope that  
12 eventually things would change and thank God they did. I  
13 stayed with the party through all of that.

14 But at that moment in that room, I could not  
15 continue to stay with the party that not only implicitly  
16 talked about suppressing people's voter's rights, it was  
17 their intent to do so and they were happy to do so for  
18 political purposes and I could not continue with a party  
19 that supported that when it went down that road.

20 Q Can you explain why you decided to make this  
21 information public? Or first of all --

22 A Well, I didn't necessarily decide to make it public.  
23 I am currently the owner of a small business, a coffee  
24 shop here in Madison, and one of my employees, Mikey  
25 Vaga, moved to Wisconsin last year from California; born



1 in the United States, a Latino American. Parents  
2 emigrated here from Mexico. He was born here. Moved to  
3 Wisconsin a year ago. 22 years old. Not necessarily  
4 politically involved at all, but knows that I was. And I  
5 make a practice in my business not to bring up politics  
6 unless they ask, and you know, a lot of people know so  
7 they ask, I share.

8 So Mikey would ask me things about -- and we have  
9 CNN on most of the time on one of our TVs in our shop and  
10 he'll ask me questions about the election and things and  
11 he kind of got into it. And he's a Bernie guy, feeling  
12 the Bern, really into -- you know, went to a couple of  
13 the rallies here in Madison and was really excited to  
14 vote. And one of his friends was registering people and  
15 went to a register the day before on --

16 MR. MURPHY: Object. Again, same standing  
17 objection.

18 MR. KAUL: Your Honor, this is for context of  
19 why he's made these public statements.

20 THE COURT: Fair enough. I'll allow it. It can  
21 be brief though.

22 THE WITNESS: So -- apologize, Your Honor. So  
23 went to register; found out that he had to -- since he  
24 had a California driver's license, thought he could just  
25 go get -- change it out at the DMV for a Wisconsin one.

TODD ALLBAUGH - DIRECT

1 Turns out you have to have either your original birth  
2 certificate, a passport, or if you're not born here, your  
3 naturalization paper. His birth certificate is back in  
4 California. What 22-year-old knows where the heck their  
5 birth certificate is, whether it's Wisconsin or  
6 California. Wasn't going to get it here the next day.  
7 Yes, he could have done the provisional ballot, but  
8 again, it's about just discouraging people and he was  
9 bummed out and he wasn't able to vote on Tuesday. And I  
10 was ticked off about it.

11 So I went to my Facebook page. Should have  
12 remembered that Facebook is public. And I just -- I just  
13 vented and said this is why I left -- you want to know by  
14 I left the Republican Party? Here it is. This was the  
15 straw that broke the camel's back. And I wrote a couple  
16 paragraphs about it and before I know it, I've got Greg  
17 Newman at Channel 27 and then the Milwaukee Journal  
18 Sentinel, Mr. Patrick Marley saying hey, yeah, we saw  
19 that Facebook post. You want to talk about that? And I  
20 had to think about it. I had to think about it.

21 And the Court may be interested to note that I have  
22 a very good friend of mine who used to work for United  
23 States Congressman Scott Klug with me who subsequently  
24 worked for Senator Margaret Farrow, got his law degree at  
25 Marquette University. His name is Ryan Lee. He now

1 works for the United States Department of Justice, not in  
2 the election division, another division. He's a friend.  
3 And I was talking to him last summer and we were just  
4 bantering as friends about my frustration with the party,  
5 whatnot, and I mentioned this incident to him and he kind  
6 of just listened and the next day he called me and the  
7 said --

8 MR. KAUL: Let the Judge rule.

9 THE WITNESS: I'm sorry.

10 MR. KAUL: That's okay.

11 THE COURT: I'm not sure what the objection was,  
12 but I'm just going to ask you to direct the witness with  
13 another question.

14 MR. KAUL: Okay. Thank you, Your Honor.

15 THE COURT: Keep it focused.

16 BY MR. KAUL:

17 Q Let me ask you this: At the time that you did this  
18 Facebook post and the interviews you described, had you  
19 ever met me or anybody from my team?

20 A No. In fact, I didn't even know there was -- I  
21 thought when people were able to -- when voter ID was put  
22 in as the law, I thought that was the end of all court  
23 cases. I wasn't even aware this court case was happening  
24 until you called me.

25 Q Okay. Thank you.

TODD ALLBAUGH - DIRECT

1 MR. KAUL: I don't have any further questions.

2 THE COURT: All right. Thank you.

3 Cross-examination. (10:23 a.m.)

4 CROSS-EXAMINATION

5 BY MR. MURPHY:

6 Q Mr. Allbaugh, what was the date of this caucus  
7 meeting you described?

8 A I don't remember the exact date.

9 Q You testified this was the day that changed your  
10 life; right?

11 A Correct.

12 Q You don't remember what day it was?

13 A The exact date, no.

14 Q You mentioned that some Senators were ashen faced?

15 A Um-hmm.

16 Q You described their reaction. Who was that?

17 A Senator Kinsey, Senator Olsen, Senator Cowles  
18 clearly were not real happy about this bill at all.

19 Q You've both here and publicly not named the Senators  
20 who you described as giddy; right?

21 A I think I just did. I think I mentioned Senator  
22 Lazich, Senator Grothman, Senator Vukmir, Senator Hopper.

23 Q No others.

24 A Those were the ones that I recall specifically.

25 Q And there weren't any others?

TODD ALLBAUGH - CROSS

1 A Not that I recall.

2 Q You have in the past refused to name those people  
3 individually; right?

4 A I haven't refused. I chose not to.

5 Q Did you not name them because you knew they'd deny  
6 it?

7 A No. I know the political games and the tricks. I'm  
8 a small business owner. I didn't want to have to go  
9 through the public attacks that I'm sure will come as a  
10 result. But at some point you have to do the right thing  
11 when you're called before a federal court. I think you  
12 have an opportunity and an obligation as a United States  
13 citizen to tell the truth and let the chips fall where  
14 they may.

15 Q You have spoken to the media about this incident  
16 though.

17 A Correct.

18 Q Did you say to Fox News, and I'm quoting, "I have no  
19 proof that anybody said anything so if I start naming  
20 names, they'll simply just say no, I didn't say that."  
21 Is that an accurate quote?

22 A I believe that's an accurate quote in the context  
23 that I didn't have a recording device there.

24 Q But you're saying here that you're sure if you name  
25 names, the people would deny it; right?

1 A Yes. When I talked to the United States Department  
2 of Justice, I think they were most appalled by the fact  
3 that I said that if people -- 95 percent of the people in  
4 that room were called before a court such as I am today,  
5 they'd lie under oath because that's the way they  
6 believe.

7 Q And you didn't name them because you didn't want  
8 them to have a chance to defend themselves; right?

9 A No, I didn't do -- I didn't name them in the -- I  
10 wasn't under oath. I was being asked by reporters. I  
11 didn't name them because I knew that it would become a  
12 public tit for tat and I'm a small business owner. I'm  
13 trying to start a business, and I just didn't want to  
14 have to go through that.

15 Q Just one last question. You described a situation  
16 that a friend of yours encountered when he went to vote.

17 A Um-hmm.

18 Q You weren't with him when that happened; right?

19 A I was not with him, no.

20 MR. MURPHY: Nothing further.

21 THE COURT: Any redirect?

22 MR. KAUL: Briefly, Your Honor. (10:25 a.m.)

23 REDIRECT EXAMINATION

24 BY MR. KAUL:

25 Q You were asked a few questions just a moment ago

1 about which Senators responded in which fashion and I  
2 believe you named approximately seven total Senators.

3 A Um-hmm.

4 Q You said the four you named were the ones you recall  
5 how they reacted. I think that leaves roughly about  
6 seven other Republican Senators?

7 A Probably. Sure.

8 Q Do you have any recollection one way or the other as  
9 to how those people reacted?

10 A I mean, the general feeling, the tone of the room is  
11 one of giddiness and happiness.

12 THE WITNESS: I'm very careful, Your Honor, and  
13 people working with me will tell you that --

14 THE COURT: So how many people were in the  
15 caucus? How many Representatives?

16 THE WITNESS: I believe there were 19 if memory  
17 serves. It was the Majority caucus, but not all usually  
18 -- for instance, Senator Ellis, then President of the  
19 Senate, was usually not in the room. Senators were free  
20 to come and go as they chose. So I would say that  
21 probably there were at least 17 -- 16 to 17 Senators at  
22 least. Perhaps more, but at least that many. The room  
23 was not empty. I recall that.

24 THE COURT: And so by my count you've got three  
25 who you said were -- somehow expressed -- you said ashen

1 face, but they expressed displeasure with the proposal.  
2 And then we've got five Senators that were giddy you  
3 said.

4 THE WITNESS: Um-hmm.

5 THE COURT: So that's about -- I guess our tally  
6 accounts for eight of about approximately 16 or 17 that  
7 are there.

8 THE WITNESS: I'm just careful that I not  
9 exaggerate for dramatic effect.

10 THE COURT: Not that it all comes down to this,  
11 I just want to know what the score is. So you've got  
12 three unhappy, five happy and the rest you don't know.

13 THE WITNESS: If you want me to go around and  
14 tell you every Senator, I could do that. There were  
15 certainly ones that just sat there. Senator Harsdorf  
16 just sat there. I don't know if she had a -- I don't  
17 remember her having a feeling one way or the other.  
18 Senator Darling just sat there. Senator Ellis, I don't  
19 believe he was in the room at the time. Senator Leibham,  
20 I think he said a couple of things in favor of the bill  
21 but wasn't necessarily giddy about it.

22 Who else would have been there? Those are the ones  
23 around the dais I'm in view of.

24 BY MR. KAUL:

25 Q And I just want to be clear. What part of this is



1 your memory clearest about?

2 A The first two quotes that I gave from Senator Lazich  
3 and Senator Grothman because they hit me right in the  
4 heart between the eyes, because in my opinion, it was  
5 nothing short of voter suppression, which was the clear  
6 intent. As I told people, there are some bills --

7 MR. MURPHY: Your Honor --

8 MR. KAUL: Let me --

9 THE COURT: I'll sustain the objection. Go  
10 ahead. Move along.

11 BY MR. KAUL:

12 Q You were asked about whether Senators could defend  
13 themselves. Do you recall that?

14 A Say again?

15 Q You were asked how you hadn't named names publicly  
16 where Senators could defend themselves. Do you recall  
17 that?

18 A The question I just had? Yes.

19 Q Yes. Did one of the Senators who was in the room  
20 actually call you recently?

21 A Yes. Senator Grothman called my business and he  
22 called me repeatedly, I would say doggedly until I agreed  
23 to call him back and have a conversation with him.

24 Q What happened in that exchange?

25 MR. MURPHY: This is hearsay.

1 THE COURT: I'll hear it. Go ahead.

2 THE WITNESS: You can have as many witnesses as  
3 you want, I believe that Senator Grothman -- not believe,  
4 I know that Senator Grothman asked for my telephone  
5 number from Patrick Wiley's colleague Jason Stein and he  
6 refused to give it to him. Then he called my former boss  
7 Dale Schultz --

8 BY MR. KAUL:

9 Q I just want to focus you on the exchange.

10 THE COURT: What did he say?

11 THE WITNESS: All right. I apologize. I just  
12 don't like being called a liar or insinuated that I am.  
13 He called me. He said -- he was very nice and he said  
14 "Yeah, Todd, I really want to talk to you because I'm not  
15 sure you're remembering things right." I said -- I  
16 called him Glenn because I've known him a long time. I  
17 said "Glenn, I remember things very clearly." And he  
18 said "Well, you know, I'm not sure you do. I just don't  
19 remember saying these things." I said "Well, that's  
20 fine. I don't anticipate that you do." And then he said  
21 "Well, here's the thing." He said "We just, as  
22 Republicans, well I should say I do, I fundamentally  
23 believe that Democrats cheat. Okay? I just do. And I  
24 don't think that our side does. And so this is why we  
25 have to have this bill to stop the cheating."

TODD ALLBAUGH - REDIRECT

1 And I said -- I said "Glenn," I went through and --  
2 to save the Court's time I won't repeat myself, but I  
3 told him the story of my employee. And he said "I'm not  
4 so sure about that, about having to have a birth  
5 certificate."

6 THE COURT: I think we get the point.

7 BY MR. KAUL:

8 Q And let me just ask you this: Did you tell Senator  
9 Grothman what you did remember?

10 A Yes, I told him, and he didn't -- he didn't  
11 necessarily -- he never told me I was a liar, at least in  
12 my phone conversation. What's more interesting is he  
13 said that he wasn't even aware that you had to have a  
14 birth certificate. He didn't even know the law that  
15 he -- clearly all he cared about was voter suppression.

16 Q And did you refer him to his public statement  
17 relating to the Voter ID Law?

18 A Yes. I said "Glenn, I know you very well and you  
19 said this publicly after, not before, but after I put on  
20 my Facebook post. You just were a little happy and you  
21 were a little bit talkative at the mouth and you said  
22 this to the reporter. You walked into it, Glenn." I  
23 said "That's not my fault. You shouldn't have spoken to  
24 the media. You are supporting exactly what I'm saying."

25 Q Did you tell him he outed himself?

TODD ALLBAUGH - REDIRECT

1 A Yes, I did use that phrase.

2 MR. KAUL: No further questions. (10:30 a.m.)

3 THE COURT: Thank you.

4 THE WITNESS: Thank you.

5 (Witness excused at 10:30 a.m.)

6 THE COURT: All right. You may call your next  
7 witness.

8 MR. SPIVA: Your Honor, we're going to play a  
9 video of Senator Grothman.

10 THE COURT: Okay.

11 MR. KAWSKI: Your Honor, before it's played, for  
12 the record we object to the relevance of this.

13 THE COURT: Okay. We'll figure out what  
14 relevance it may have.

15 (Glenn Grothman video played 10:30-10:32 a.m.)

16 MR. KAUL: I'm sorry, I didn't hand out  
17 transcripts at this point.

18 THE COURT: You can get them up to me later,  
19 that's fine.

20 MR. KAUL: And Your Honor, the next thing we're  
21 going to do is play the audio from Dale Schultz. I have  
22 transcripts for that one which I will walk up with.

23 THE COURT: All right.

24 MR. KAWSKI: Again, object to the relevance of  
25 this.

1 THE COURT: I will hear it and then we'll  
2 consider what relevance it might have.

3 (Dale Schultz video played 10:32-10:40 a.m.)

4 THE COURT: Why don't we stop it here. I've got  
5 it all in the record. Thank you.

6 MR. SPIVA: Your Honor, the plaintiffs' next  
7 witness is Nannette Mayze and she is going to testify on  
8 her own behalf but also on behalf of her father who is a  
9 plaintiff, Johnny Martin Randle. I think we made Your  
10 Honor aware that he has a disability.

11 THE COURT: Okay. Very good.

12 **NANNETTE MAYZE, PLAINTIFFS' WITNESS, SWORN,**

13 DIRECT EXAMINATION

14 BY MR. SPIVA:

15 Q Good morning, Ms. Mayze.

16 A Good morning.

17 Q Could you state your full name for the record.

18 A Nannette Lynn Mayze.

19 Q Can you spell that, please?

20 A N-a-n-n-e-t-t-e, L-y-n-n, M-a-y-z-e.

21 Q And Ms. Mayze, where are you from?

22 A Milwaukee, Wisconsin.

23 Q Are you originally from Milwaukee?

24 A No.

25 Q How long have you lived in Milwaukee?

NANNETTE MAYZE - DIRECT

1 A 27 years.

2 Q And what is your -- what do you do for work?

3 A I'm a health aide.

4 Q And I understand that you're the daughter of Johnny

5 Randle, a plaintiff in this case; is that right?

6 A Yes.

7 Q Where was Mr. Randle born?

8 A Tchula, Mississippi.

9 Q Where was he born? In a hospital or at home?

10 A At home.

11 Q And how old is your father?

12 A 74.

13 Q Is Mr. Randle African American?

14 A Yes.

15 Q How long did he live in Tchula, Mississippi?

16 A Seventy years.

17 Q Lived there most of his life?

18 A Yes.

19 Q Has he since moved to Wisconsin?

20 A Yes.

21 Q When did he move to Wisconsin?

22 A 2011.

23 Q And why did he move to Wisconsin?

24 A Because he got sick.

25 Q What happened to him?

NANNETTE MAYZE - DIRECT

1 A He had two strokes.

2 Q And where does he live here in Wisconsin?

3 A With me in Milwaukee.

4 Q Has he lived with you in Milwaukee since he moved  
5 here in 2011?

6 A Yes.

7 Q Has the stroke affected his speech?

8 A Yes.

9 Q How has it affected his speech?

10 A Some words he can get out and some he can't.

11 Q Has it affected his ability to write?

12 A Yes.

13 Q And is he able to sign his name physically?

14 A Not anymore. He struggles to make the "X."

15 Q I take it that Mr. Randle requires some level of  
16 care?

17 A Yes.

18 Q Health care? Are you -- is he still sound of mind?

19 A Yes.

20 Q Ms. Mayze, you helped Mr. Randle manage a number of  
21 -- have you helped Mr. Randle manage a number of aspects  
22 of his life since the stroke?

23 A Yes.

24 Q What types of decisions or things do you help him  
25 manage?

NANNETTE MAYZE - DIRECT

1 A Finance care, transportation, dressing.

2 Q When you say care, do you mean health care?

3 A Health care, yes.

4 Q And has Mr. Randle consented to your helping him  
5 with those things?

6 A Yes.

7 Q Do you often help him with things like, say, his  
8 decision to participate in something like a lawsuit?

9 A Yes.

10 Q And is Mr. Randle in the courtroom today?

11 A Yes.

12 Q Can you point him out?

13 A Sitting in the back with the white hoodie.

14 Q Okay. Now, I want to talk with you about this issue  
15 of the spelling of Mr. Randle's name. How does your  
16 father spell his name?

17 A J-o-h-n-n-y, Martin, M-a-r-t-i-n, Randle,  
18 R-a-n-d-l-e.

19 Q And has he spelled his name that way his entire  
20 life?

21 A Yes.

22 Q Have you seen your father's Social Security card?

23 A Yes.

24 Q How is his name spelled on his Social Security card?

25 A J-o-h-n-n-y, M. R-a-n-d-l-e, S-r.



1 Q Let me ask if we can pull up Plaintiffs' Exhibit  
2 367, page 22-012. This can be public because the number  
3 has been redacted. Is this Mr. Randle's Social Security  
4 card, Ms. Mayze?

5 A Yes.

6 Q And do you know if Mr. Randle had a driver's license  
7 from Mississippi?

8 A Yes.

9 Q Have you seen it?

10 A Yes.

11 Q How is Mr. Randle's name spelled on his old  
12 Mississippi driver's license?

13 A J-o-h-n-n-y, M., R-a-n-d-l-e.

14 Q And just so the record is clear, the "M," that's his  
15 middle initial I take it?

16 A Yes. Martin. Stands for Martin.

17 Q For Martin. Let me ask if we can pull up the same  
18 exhibit but the next page. And if you could take a look  
19 at that, Ms. Mayze, is this Mr. Randle's Mississippi  
20 driver's license?

21 A Yes.

22 Q Does your father receive any types of account  
23 statements or bills at your house?

24 A Yes.

25 Q And as someone who helps him take care of some of

1 his affairs, do you open those types of things for him?

2 A Yes.

3 Q And how is his name -- does he have a bank  
4 statement? Does he get a bank statement?

5 A Yes.

6 Q How was his name spelled on his bank statement?

7 A J-o-h-n-n-y, M., R-a-n-d-l-e.

8 Q Okay. And just so -- I don't want to put you  
9 through the torture of having to keep spelling it, you  
10 can say it's the same way.

11 A Okay.

12 Q And on the other types of bills and other types of  
13 mail that he receives, is it generally spelled the same  
14 way?

15 A Yes.

16 Q Have you ever seen him receive a piece of mail with  
17 a different spelling?

18 A No.

19 Q Let me ask you about Mr. Randle's birth certificate.  
20 Did there come a time that you helped Mr. Randle retrieve  
21 his birth certificate from Mississippi?

22 A Yes.

23 Q Did you have to pay some money to get that?

24 A Yes.

25 Q And why did you get your father's or why did you

1 help your father get his birth certificate from  
2 Mississippi?

3 A The Department of Motor Vehicles said he needed it.

4 Q Why did they say -- did they say why he needed it?

5 A Because his driving license was expired and he  
6 couldn't get anything without -- he couldn't get a  
7 Wisconsin ID without his birth certificate.

8 Q Let me show you the same exhibit we had up a minute  
9 ago, page 67, but page 22-14, and just if you can take a  
10 look at that, Ms. Mayze, I know it's a little bit hard to  
11 read and it doesn't actually get that much easier when  
12 it's in hard copy, as you know. But is this a copy of  
13 the birth certificate that you helped your father get  
14 from Mississippi?

15 A Yes.

16 Q And you don't have to read it off the screen. I  
17 take it you know how it's spelled --

18 A Yes.

19 Q -- on -- okay. How -- I would actually like you to  
20 tell me how it's spelled on his birth certificate,  
21 starting with Johnny.

22 A J-o-h-n-n-i-e.

23 Q And then the middle name Martin.

24 A M-a-r-t-e-n.

25 Q And then the last name.

NANNETTE MAYZE - DIRECT

1 A R-a-n-d-a-l-l.

2 Q Okay. And had -- we can take the birth certificate  
3 down, please. Before you -- about when did you get the  
4 birth certificate from Mississippi?

5 A I think it was 2000 -- toward the end of the 2011, I  
6 think. I'm not sure.

7 Q Okay. And had you ever seen that spelling of  
8 Mr. Randle's name prior to you obtaining the birth  
9 certificate for him?

10 A No.

11 Q And had he ever seen it spelled that way prior to --

12 A No.

13 Q And does he consider that to be the proper spelling  
14 of his name?

15 A No.

16 Q Okay. I'm going to ask you -- I want to ask you in  
17 a minute about any efforts you may have made on his  
18 behalf to try to get a free ID. But first I want to  
19 briefly ask you about efforts prior to that time when you  
20 were trying to get the free ID, to obtain a Wisconsin ID  
21 for him. Can you briefly describe what efforts you had  
22 made to obtain a Wisconsin ID? So this is the time  
23 period prior to August 2015.

24 A We went to motor vehicles and they told me that they  
25 can't give him an ID because his driver license was

1 expired. And they told me that he need other documents.  
2 I said "Well, I have his Social Security card, his red,  
3 white and blue card, and I have mail with his name on  
4 it." And she said "Well, you have to fill this form  
5 out." I said "Okay."

6 So little while later I'm like maybe I try another  
7 one. So I went to a different motor vehicle and they  
8 basically told me the same thing and they gave me the  
9 same form to fill out. So I filled the form out there,  
10 and I was notified that he would need a birth  
11 certificate. I said "Okay." So when I sent for the  
12 birth certificate and it came back like that, I'm like I  
13 don't know.

14 So later on I went back to motor vehicles and I said  
15 "I have his birth certificate but it's spelled entirely  
16 different." And he was unaware, I was unaware, anybody  
17 was unaware that his name was spelled different. They  
18 said "Well, you have to call Madison and we'll do this  
19 again." There's some form I had to fill out.

20 Q Can I interrupt you for just a minute? Are you  
21 getting into the period after you started applying for  
22 the free ID?

23 A No.

24 Q Okay. This is before the free ID.

25 A No. Yes.

NANNETTE MAYZE - DIRECT

1 Q Okay. Please, go ahead.

2 A So again, I didn't believe them. So I went to  
3 another motor vehicle and they basically told me the same  
4 thing, that there's nothing they can do because it didn't  
5 match his ID and it didn't match his Social Security  
6 card. So I said okay.

7 And then later on, like a year or so later, I was  
8 told that he can get a free ID. I'm like okay.

9 Q Okay. So let me -- I want to ask you about that now  
10 because is that -- when you mentioned the free ID, is  
11 that -- was that -- were there trips you began to make in  
12 August of 2015 to get that?

13 A Yes.

14 Q And where did you first apply when you wanted to get  
15 the free ID?

16 A I think I was on Teutonia at that one.

17 Q Is it Teutonia or was it the downtown DMV?

18 A It was either -- I'm not quite sure. But I went to  
19 both, but I don't know which one I went to first. But I  
20 went to both of them.

21 Q Okay. And what happened at the DMV location you  
22 went to to apply for a free voter ID for Mr. Randle?

23 A She told me that I would have to call Madison and  
24 explain the situation to them and that they will contact  
25 me.

1 Q Okay. And let me just ask you to break it down a  
2 little bit. First of all, I should have asked you did  
3 Mr. Randle go with you to try to get the ID?

4 A Yes.

5 Q And was this at a time where he couldn't actually  
6 sign his name himself?

7 A Yes.

8 Q Did you have to fill out any paperwork the first  
9 time you went to try to apply for a free voter ID?

10 A Yes.

11 Q Let me ask if we could pull 367, Plaintiffs' Exhibit  
12 367 up again, page 22-11, and let me just ask you to take  
13 a look at that, Ms. Mayze, and once you've had a chance,  
14 was this the document that you had to submit when you  
15 went to apply for the free ID?

16 A Yes.

17 Q And you -- did you have to check a box here that you  
18 wanted to get the ID for free?

19 A Yes.

20 Q What documentation did you bring with you when you  
21 went to fill out this application, do you recall?

22 A I had his driving license, his Social Security card,  
23 his red, white and blue card, and I did have a birth  
24 certificate with me.

25 Q Okay. What's a red, white and blue card?

1 A It's Medicaid/Medicare, Part A and B.

2 THE COURT: Can you zoom in a little closer on  
3 the document?

4 MR. SPIVA: I'm sorry?

5 THE COURT: Can we zoom in a little closer?

6 MR. SPIVA: I'm sorry. Is that good enough,  
7 Your Honor? Can you read it?

8 THE COURT: That's good enough.

9 BY MR. SPIVA:

10 Q And what did you do next to try to get a free ID --  
11 first of all -- excuse me, let me back up. Would they  
12 take those things?

13 A No.

14 Q And you're sure you had the birth certificate when  
15 you went there the first time?

16 A Yes.

17 Q What did you do next to try to get the ID?

18 A I called Madison, like they told me to do, and I  
19 explained my situation to them, and I did.

20 Q Okay. And what did they tell you?

21 A She told me that she was going to talk to her  
22 supervisor and that this happens a lot, that a lot of  
23 people, you know, do have misspellings of their name and  
24 it creates problems. And she did call me back and told  
25 me she was sending me some papers in the mail to fill out

NANNETTE MAYZE - DIRECT



1 and send them back to her.

2 Q Okay. And let me just stop you there. When you  
3 said she said that this often happens, was she referring  
4 to the misspelling on the birth certificate?

5 A Yes.

6 Q Do you recall who you spoke to when you talked to  
7 the person in Madison?

8 A Becky.

9 Q And what did -- did you gain an understanding of  
10 what she was telling you you would need to do to actually  
11 get the free ID from that call, that initial call?

12 A At first, you know, I thought it was a lot of work  
13 because I asked her, I says is there any other way we can  
14 do this, I said, because his mom is dead, his dad is  
15 dead, all his brothers is dead except one, and he got  
16 five sisters and they all older than him except one. So  
17 a lot of the information, I said "Well, I'm going to do  
18 the best that I can." So then the next --

19 Q Can I stop you just a second? What type of  
20 information did she ask you to obtain?

21 A My grandmother's maiden name, my father's siblings'  
22 name, any relatives that's in Mississippi in the rural  
23 areas. And I told her no one is in the rural area  
24 anymore, they're all dead. And she asked is there any  
25 children that's there living in Mississippi and I told

NANNETTE MAYZE - DIRECT

1 her "Yeah, I still have siblings." And she said she was  
2 going to try to get all the information that she needs  
3 from the vital record department down there; so...

4 Q You may have said this and I apologize if you did,  
5 but did she ask you to try to find out your father's  
6 mother's maiden name?

7 A Maiden name, yes.

8 Q Did you know it at that time?

9 A I told her Bankhead. But when she checked, she said  
10 it was wrong and I'm like no. That's all I know is  
11 Bankhead.

12 Q And did she ask you to obtain other types of  
13 information that you didn't know?

14 A Yeah, my grandmother's maiden name -- well, my great  
15 grandmother's, which is his grandmother. I told her I  
16 don't know those people. They were all dead before I was  
17 born, so I can't give her any information about that.

18 Q Okay. And in your conversation with the person from  
19 the DMV in Madison, did she ever suggest anything in  
20 terms of changing his name?

21 A Yeah, she did. She said that in order for him to  
22 get a Wisconsin state ID, he will have to use the name  
23 that's on his birth certificate. And I said what you  
24 say? She said he would have to use the name that's on  
25 his birth certificate. And I told her I wasn't doing

1 shit. I'm not doing that. That's not what he want to  
2 do, you know. He don't know that name. The only name he  
3 knows is what he uses.

4 Q What did Mr. Randle think of that idea?

5 A He started laughing. He said it was stupid.  
6 Stupid. I don't know that at all.

7 Q So he didn't want to change his name.

8 A No.

9 Q Okay. And was there -- did she ever suggest  
10 anything in terms of changing his name with the Social  
11 Security Administration?

12 A Yes, she did. She said I will have to change his  
13 name at the Social Security Office and everything else  
14 that's pertaining to his benefits and I told her I wasn't  
15 doing that either.

16 Q Did you have concerns about doing that?

17 A Yes.

18 Q What were they?

19 A He don't know that name. Honestly he don't. If any  
20 mail come to the house with that name on it, it's not  
21 him.

22 Q Were you or was he concerned that it might interfere  
23 in some way with his Social Security benefits?

24 A Yes. He was thinking, you know, maybe he wouldn't  
25 get a check and I was thinking the same thing because

1 this is a person that really don't exist as far as we  
2 know. So if that person don't exist, all the years he  
3 put in working and raising us and stuff meant nothing.

4 Q Okay. Let me show you page 18 of this exhibit, if  
5 we go to 22-18, and ask you, Ms. Mayze, this document is  
6 a little messed up in terms of its ordering and I'll show  
7 you in a minute that page 18 appears to be, and I want  
8 you to confirm whether this is correct or not, but page  
9 18 appears to be the cover letter and then page 17 of  
10 this document appears to be the attachment. But let me  
11 first ask you if you can take a look -- and maybe we can  
12 make it a little bigger, please.

13 Is this a letter that Ms. Beck from the Department  
14 of Motor Vehicles in Madison sent you?

15 A Yes.

16 Q And what did you understand her letter to be asking  
17 you to do on behalf of Mr. Randle?

18 A Actually when this one came in the mail, I just  
19 glanced at it and put it aside.

20 Q Okay. Let me ask you to turn to -- if we can turn  
21 to page 17, the previous page, and actually 16. 16 and  
22 17. And let me ask you, Ms. Mayze, was this document --  
23 for the record that has the title *REAL ID Affidavit of*  
24 *Common Law Change Name Instructions*. Was this the  
25 document -- we'll take a look on page 16 and then if we

NANNETTE MAYZE - DIRECT

1 can take a look on page 17. Was this the document that  
2 was attached to Ms. Beck's letter to you?

3 A Yes.

4 Q Okay. And what did you understand this to be?

5 A I understood it to be a document stating the old  
6 name and the name that he use.

7 Q Okay.

8 A And to me the old name, new name and the name you  
9 use, it's all the same because he never use any other  
10 name before.

11 Q Okay.

12 A So I put both names down.

13 Q So if I'm understanding you correctly, did you fill  
14 this form out?

15 A Yes.

16 Q And on the page 16, so you filled out my old name is  
17 Johnny Martin Randle spelled the way he's used it most of  
18 his life -- all of his life.

19 A Right, yes.

20 Q Okay. And then my name is, and then you were the  
21 one who wrote in the way it's -- also the same spelling.

22 A Yes.

23 Q Okay. And did you also -- looking at page 17, did  
24 you also have to get this document notarized?

25 A Yes.

NANNETTE MAYZE - DIRECT

1 Q Where did you do that?

2 A Chase Bank.

3 Q And then did you send this form back to Ms. Beck or  
4 someone at the DMV to try to continue to pursue a free ID  
5 for Mr. Randle?

6 A Yes.

7 Q And did you get -- did Mr. Randle get a free ID as a  
8 result of your filling out that paperwork?

9 A No.

10 Q Did you receive -- did you have other conversations  
11 with Ms. Beck or someone at the DMV in Madison other than  
12 the conversation you were describing a minute ago?

13 A We spoke numerous of times, but I can't remember the  
14 exact dates or anything like that. But from the very  
15 first time, which was in July of 2011 up until 20 -- up  
16 until last year in October.

17 Q And let me just ask you because the documents we  
18 looked at a minute ago regarding this free ID appeared to  
19 start in August of 2015 and I just wanted to ask you does  
20 that refresh your recollection that the conversations  
21 with Ms. Beck occurred between August of last year --

22 A Yes.

23 Q -- and the end of the year last year?

24 A Yes.

25 Q Okay. And let me ask you did you receive additional

1 correspondence from Ms. Beck with another affidavit-type  
2 form like the one you sent in?

3 A She did. But like I said, when I got it, I glanced  
4 at it and I just put it in the drawer.

5 Q Let me ask you to look at -- let me show you  
6 Plaintiffs' Exhibit 367, page 22-19. And this is a  
7 letter dated November 18, 2015, addressed to Johnny M.  
8 Randle care of Nannette Mayze and it's signed by Becky  
9 Beck, Wisconsin Department of Transportation. This is a  
10 letter you received?

11 A Yes.

12 Q And was this the letter that you said you ended up  
13 putting to one side?

14 A Yes.

15 Q Okay. When you got it, did you read it carefully or  
16 read it at all?

17 A No.

18 Q Okay. And did you have an understanding from  
19 looking at it whether this letter or the envelope that it  
20 came in had a free ID in it?

21 A No.

22 Q You had an understanding it did not have a free ID.

23 A It did not.

24 Q Okay. And what did your father say about the letter  
25 when you received it?

NANNETTE MAYZE - DIRECT

1 A He just said "Shit on that."

2 Q He said what?

3 A "Shit on that." And I put it away.

4 Q Okay. And I take it that would mean he was fed up.

5 A Yes.

6 Q Okay. And was this after you had been through many  
7 conversations with the DMV?

8 A Yes.

9 Q And you had sent in a lot of documentation over the  
10 years.

11 A I sent in what they asked. I filled out all the  
12 paperwork they wanted me to fill out. So there was  
13 nothing else I could do.

14 Q Let me ask you to take a look at the second page,  
15 which is page 20. And for the record again, this is  
16 titled *REAL ID Affidavit of Common Law Name Change*  
17 *Instructions*. Was this -- I'm just going to draw your  
18 attention to this -- the document where it says "My old  
19 name is Johnnie Marten Randall and my name is Johnny  
20 Randle"; kind of focus in on that. This is kind of  
21 similar to the other document that we looked at earlier;  
22 right?

23 A Right, yes.

24 Q Did you fill this one in?

25 A No.



1 Q This came to you prefilled in?

2 A No -- well, it came like that, but I didn't do  
3 anything else with that. I just put it aside.

4 Q Okay. And was this attached to the letter that you  
5 kind of put aside?

6 A Yes.

7 Q All right. Did you have any understanding of what  
8 Ms. Beck was asking you or suggesting that you do with  
9 this?

10 A No.

11 Q And just so the record is clear, on this document my  
12 old name is Johnnie Marten Randall, is that spelled the  
13 way it's spelled on his birth certificate?

14 A Yes.

15 Q Okay. And then the line that says *My name is Johnny*  
16 *M. Randle*, that's spelled the way he has spelled it all  
17 his life.

18 A Yes.

19 Q Now, a first minutes ago you mentioned you had a  
20 number of conversations with Becky in Madison and I want  
21 to show you a letter to see if it might help refresh your  
22 recollection about how many calls you had with the DMV  
23 trying to get the ID. Let me show you, same exhibit, but  
24 page five. And for the record, this is a letter dated  
25 January 13, 2016, and it is addressed to Johnny M.

NANNETTE MAYZE - DIRECT

1 Randle, and on the second page, which is page six of the  
2 exhibit, actually doesn't have a signature line, but it's  
3 on Wisconsin Department of Transportation letterhead.

4 First of all, Ms. Mayze, do you recall whether  
5 you've received this letter or not or Mr. Randle received  
6 it?

7 A No, I don't recall receiving it.

8 Q Okay. Well, I just want to ask you about some of  
9 the entries here just to see if they refresh your  
10 recollection about when you spoke to the DMV and some of  
11 the things they may have told you. If it does, it does.  
12 If it doesn't, it doesn't. Let me direct your attention  
13 to the third numbered paragraph and that paragraph talks  
14 about a call being placed on 8-17-2015 to Mr. Randle and  
15 that a call was received back from a Nannette Mayze, it  
16 says "Johnny's daughter." Do you see that?

17 A Yes.

18 Q Does that refresh your recollection? I'm not trying  
19 to hold you to specific dates, but that you may -- that  
20 you received a call around that time --

21 A Yes.

22 Q -- in 2015. And it goes on to say "She," I believe  
23 referring to you, Ms. Mayze, "indicated that his name on  
24 the birth certificate was spelled differently." It says  
25 it was Johnnie Martin Randle, spelled like the birth

NANNETTE MAYZE - DIRECT

1 certificate. "His father's name was James Randle. She  
2 could not recall his mother's maiden name and advised she  
3 would look into that."

4 So do you recall in this call that you were giving  
5 them this additional information about his father's name,  
6 your father's father's name?

7 A Yes.

8 Q And then there's another entry, Item 4, dated the  
9 same day, 8-17-2015, and it says "DMV staff received a  
10 call back from Ms. Mayze indicating Mr. Randle's mother's  
11 maiden name was Daisy May More. DMV submitted the  
12 petition application to the Wisconsin Vital Records  
13 Office for verification with the State of Mississippi  
14 using the maiden name More." Do you recall that  
15 conversation?

16 A Yes, I do.

17 Q Okay. And I think you testified earlier that maybe  
18 you weren't sure that More was the correct maiden name?

19 A Yes.

20 Q Okay. And then turning your attention to Item 6  
21 here, which is dated 8-24-2015, it says "DMV staff  
22 received a call from Ms. Mayze. Alternate evidence that  
23 could be used was reviewed. It was verified that his  
24 school district while growing up was in Holmes County."

25 Do you recall a conversation that you initiated

NANNETTE MAYZE - DIRECT

1 around that time where you were giving information about  
2 where he went to school in Mississippi?

3 A Yes.

4 Q Was that where he went to elementary and high  
5 school?

6 A Just elementary.

7 Q Elementary. And was that information that the DMV  
8 said that they needed in order to try to help --

9 A No.

10 Q Okay. Why did you give them that information?

11 A Because she wanted all the information possible  
12 about him to try to locate and make sure that he was born  
13 there and that James Randle is his father and Daisy May  
14 is his mother.

15 Q Did she -- the person you spoke with, did she ever  
16 raise any question about whether he really was Johnny  
17 Martin Randle?

18 A No.

19 Q Let me turn your attention to Item 7, which is dated  
20 9-9-2015. And it says the "DMV staff receive a call from  
21 Ms. Mayze. She has a birth certificate for her father  
22 but the name is misspelled. She advised she would bring  
23 this to the DMV for review."

24 Do you recall giving them yet another call around  
25 that time?

NANNETTE MAYZE - DIRECT

1 A Yes.

2 Q And is this -- do you recall telling them that you  
3 would bring the birth certificate to the DMV for review?

4 A Yeah.

5 Q Okay. And you did that ultimately?

6 A I did that, but it wasn't the first time. I  
7 couldn't understand why they would need it again.

8 Q You had given it to them before --

9 A Yeah.

10 Q -- and you were going to need to give it to them  
11 again.

12 A Yes.

13 Q Okay. Let me direct your attention to Item 9, which  
14 is dated 9-21-2015. This says "DMV staff spoke with  
15 Ms. Mayze. Verification on the maiden name was  
16 discussed."

17 Do you recall that -- another conversation around  
18 this time with them, more discussions of Mr. Randle's  
19 mother's maiden name?

20 A Yes.

21 Q Do you recall anything about those discussions?

22 A Becky said that they got Bankhead for his mother's  
23 maiden name. I told her "No, all his siblings, his  
24 sisters that's left, everybody says maiden name -- their  
25 mother's maiden name is More. I have no idea where

NANNETTE MAYZE - DIRECT

1 Bankhead come from." She said "Well, could it be his  
2 grandparents or auntie?" I have no idea.

3 Q And did you ever know Mr. Randle's mother?

4 A She died when I was six.

5 Q So you didn't really have a basis to know her maiden  
6 name?

7 A No.

8 Q Okay. Let me direct your attention to Item No. 12,  
9 which is on the next page of the document. And if we  
10 could blow that up. And that entry is dated 10-7-2015  
11 and it says "DMV staff called the telephone number  
12 provided on the petition application and spoke with  
13 Nannette Mayze. It was relayed that the verification  
14 came through for Johnny Randall and with the mother's  
15 maiden name of More. It was advised that Mr. Randle  
16 would need to either request a name correction through  
17 Social Security to obtain a card with the correct  
18 spelling or that he will need to legally change his name  
19 to Johnny Randle, spelled J-o-h-n-n-y, R-a-n-d-l-e, and  
20 provide copies of the court documents of the change.  
21 Ms. Mayze advised this would be relayed to Mr. Randle and  
22 then stated she did not believe either option would  
23 occur."

24 Is that consistent with your recollection that they  
25 advised you that you would need to either go through some

NANNETTE MAYZE - DIRECT

1 kind of court process to change his name or change his  
2 name through Social Security?

3 A Yes.

4 Q And so this also reflects a conversation that you  
5 had, another conversation you had with the DMV?

6 A Yes.

7 Q Okay. Let me direct your attention to the next item  
8 dated 10-9-2015, so two days later. By the way, you  
9 work, don't you, Ms. Mayze?

10 A Yes.

11 Q Do you have a lot of extra time to speak with the  
12 DMV?

13 A I can take a real quick break.

14 Q So this one is a 10-9-2015 entry and it says "a call  
15 was placed by DMV staff to Nannette Mayze indicating that  
16 a REAL ID Affidavit of Common Law Name Change may be  
17 submitted for review."

18 Do you recall having another call with them?

19 A No, I don't.

20 Q Okay. And did anybody explain to you what an  
21 Affidavit of Common Law Name Change was?

22 A No.

23 Q Okay. Did anybody explain to you what the  
24 significance of that would be?

25 A No.

NANNETTE MAYZE - DIRECT

1 Q Let me direct your attention to the next entry,  
2 10-12-2015. Says "Nannette Mayze returned the call to  
3 DMV staff and asked that the REAL ID Affidavit of Common  
4 Law Name Change be mailed out for completion."

5 Do you recall a conversation like that with them?

6 A Somewhat, but if they said application, they didn't  
7 say nothing about no common law and all that. She just  
8 said the application will be mailed to you and you need  
9 to complete it.

10 Q Okay. Do you think that might have been around the  
11 time that you filled out the one where you put Johnny  
12 Randle and Johnny Randle and sent it back?

13 A Yes.

14 Q And then the -- let me direct your attention to Item  
15 No. 17 dated 11-18-2015. This entry reads "DMV staff  
16 spoke with Nannette Mayze and indicated that the form  
17 needed to be filled out with the correct prior name."

18 Do you recall having a conversation with them where  
19 they told you it needed to be, and I'm going to put this  
20 in kind of air quotes, "the correct legal name"?

21 A Yes.

22 Q And what did they tell you they meant by the correct  
23 legal name?

24 A What's on his birth certificate.

25 Q Did you consider that to be his correct --

NANNETTE MAYZE - DIRECT



1 A No.

2 Q Okay. I'm sorry. I misspoke.

3 A I'm sorry.

4 Q Correct prior name. Did you consider that to be his  
5 correct prior name?

6 A No.

7 Q And did Mr. Randle believe that was his correct  
8 prior name?

9 A No.

10 Q And then it says "Also Johnny Randle would need to  
11 sign." Had you advised them by this time in 2015 that he  
12 had an inability to sign those types of documents on his  
13 own?

14 A Yes.

15 Q And it says "If Nannette Mayze is signing as power  
16 of attorney --" do you have an understanding of what  
17 power of attorney is?

18 A Yes.

19 Q Okay. "If Nannette Mayze is signing as power of  
20 attorney, this designation would be reflected with the  
21 signature and a copy of the power of attorney papers  
22 provided. Nannette Mayze requested that this be resent  
23 for her completion."

24 So do you have a formal power of attorney for  
25 something like this for Mr. Mayze (sic)?

NANNETTE MAYZE - DIRECT

1 A For medical, yes.

2 Q For medical issues?

3 A Yes.

4 Q And did you know whether or not that would be  
5 sufficient for purposes of getting the free ID?

6 A No.

7 Q And did you have money to go hire an attorney to  
8 help you figure some of this out?

9 A No.

10 Q And then -- just kind of counting back over the  
11 conversations that this letter recounts, maybe let me  
12 just -- I count numbers -- Item No. 17, Item No. 15, Item  
13 No. 14, Item No. 13, Item No. 12, Item No. 9, Item No. 7,  
14 Item No. 6, Item No. 4, Item No. 3. I may have  
15 miscounted, but I get about 11. Does that fit with your  
16 recollection of how many times you spoke back and forth  
17 with the DMV?

18 A Yes.

19 Q Could it have been more?

20 A It may have, I'm not sure.

21 Q Okay. And have you also been on trips in person to  
22 the DMV?

23 A Yes.

24 Q And Mr. Randle, you had to take Mr. Randle with you?

25 A Yes.

NANNETTE MAYZE - DIRECT

1 Q Does he have some mobility issues that make it  
2 difficult?

3 A To walk, yes.

4 Q Okay. Ms. Mayze --

5 MR. SPIVA: Ms. Schultz, we can take that down.

6 Q Ms. Mayze, did anyone at the DMV ever inform you  
7 that they had run an investigatory report on Mr. Randle  
8 at about the same time that you first applied for a free  
9 voter ID for him in August of 2015?

10 A No.

11 Q And do you know -- so I take it you weren't aware of  
12 what's in that file?

13 A No.

14 Q One of the things that it reflects, Ms. Randle --  
15 Ms. Mayze, is that Mr. Randle lived on Highway 49 in  
16 Tchula, Mississippi. Is that where he lived before he  
17 moved to Madison?

18 A Yes.

19 Q It reflects the name of somebody named Timothy  
20 Therman. Who's that?

21 A His son-in-law.

22 Q It has the name of someone named Santrel Therman.  
23 Who is that?

24 A His grandson.

25 Q Mercedes Malone. Who is that?

NANNETTE MAYZE - DIRECT

1 A His granddaughter.

2 Q Does Mr. Randle own a 1997 Oldsmobile?

3 A Yes, he do.

4 Q Now, the report reflects that -- and it has a Johnny  
5 Randle spelled the way he uses it as the registered  
6 owner. Let me show you Plaintiffs' Exhibit 445,  
7 specifically pages three and four.

8 MR. SPIVA: Ms. Schultz, this would need to be  
9 -- I think we can show this on the public screen if we  
10 just focus on pages three and four because that's  
11 information relating to Mr. Randle, Your Honor.

12 THE COURT: I muted the video so you can get it.  
13 When you're ready, just let me go and then I can publish  
14 it.

15 MR. SPIVA: Thank you, Your Honor.

16 THE COURT: Is there a part that we have to  
17 focus on or are these pages --

18 MR. SPIVA: You know, actually maybe we should  
19 keep this on just the internal screens. There's one page  
20 of it that might have a little bit -- I don't think it's  
21 actually -- I just don't want to show too much of his  
22 private information.

23 BY MR. SPIVA:

24 Q So do you have it on your screen, Ms. Mayze?

25 A Yes.

NANNETTE MAYZE - DIRECT

1 Q This is page three of Plaintiffs' Exhibit 445. I  
2 can't see the screen in front of me. So Ms. Mayze, this  
3 is a letter, for the record, that's dated May 13, 2016,  
4 addressed to Johnny Randle. Re: Free Wisconsin ID card  
5 for voting purposes. And it's signed by Kristina H.  
6 Boardman, Wisconsin DMV Administrator.

7 Ms. Randle (sic), have you ever seen this document  
8 before?

9 A No.

10 Q Didn't I show it to you yesterday?

11 A Yes. Not before that.

12 Q But that was the first time you had seen it; right?

13 A Yes.

14 Q It has a date of May 13 which is otherwise known as  
15 last Friday.

16 A Yes.

17 Q Okay. And let me just direct -- do you have -- if I  
18 can direct your attention to the first paragraph of the  
19 letter. It starts out "Wisconsin Administrative Code  
20 Trans 102.15 has recently been amended to allow for the  
21 issuance of a temporary identification card receipt  
22 usable for voting purposes while an identification card  
23 petition application is being processed."

24 Do you have any idea what Wisconsin Administrative  
25 Code Trans 102.15 is?

NANNETTE MAYZE - DIRECT

1 A No.

2 Q Have you had any discussions with anybody at DMV  
3 about that code?

4 A No.

5 Q Okay. And it says -- now let me ask you -- this  
6 says that this is available while an identification card  
7 petition application is being processed. In your mind is  
8 Mr. Randle's application still being processed?

9 A In my mind truthfully it shouldn't be.

10 Q Okay.

11 A I gave them every document possible.

12 Q Okay. This says that -- this receipt is valid for  
13 60 days and can be used only for Wisconsin voting  
14 purposes.

15 Do you see that, Ms. Mayze?

16 A Yes.

17 Q Is there any explanation on the letter about  
18 renewing -- about the possibility of renewing the  
19 receipt?

20 A No.

21 Q Okay. Is the November election more than 60 days  
22 away?

23 A Yes, it is.

24 Q Okay. Does Mr. Randle want to vote in the November  
25 election?

NANNETTE MAYZE - DIRECT

1 A Yes.

2 Q Why does he want to vote?

3 A He don't want him in there.

4 MS. SCHMELZER: Objection. Hearsay and  
5 speculation.

6 THE COURT: I will allow it. Overruled.

7 THE WITNESS: He say he don't want that in  
8 there. We messed up if he get in there.

9 BY MR. SPIVA:

10 Q Who is he referring to in terms of --

11 A Trump.

12 Q This letter in the next paragraph says "Your  
13 application for a free ID for voting purposes was denied  
14 on January 14, 2016."

15 Did you have an understanding that Mr. Randle's  
16 application for a free ID had been denied?

17 A Yes.

18 Q And so did you have an understanding of why it had  
19 been denied?

20 A No. I have speculation, but --

21 Q Okay. I don't want you to speculate, but if you  
22 have an understanding based on what you understood from  
23 looking at --

24 A I understood -- my understanding that they did not  
25 give him a voter's ID because I did not have the name

NANNETTE MAYZE - DIRECT

1 changed to what's on his birth certificate and I wasn't  
2 willing to do so and I said I wasn't because I'm not  
3 going to start him over at the age of 70 plus to a name  
4 that he doesn't know.

5 Q The next sentence in that paragraph, after it talks  
6 about the ID being denied, says "However, we encourage  
7 you to continue to work with our office to verify your  
8 birth record as required to receive a Wisconsin ID."

9 Are you aware of anything else that you or  
10 Mr. Randle could do to verify his birth record?

11 A No.

12 Q And it says "If a birth record is not available,  
13 secondary documentation may be reviewed for  
14 consideration."

15 Was there ever any additional documentation or  
16 secondary documentation that someone from DMV asked you  
17 to collect beyond what you already provided?

18 A No. What I had they said was sufficient except the  
19 name spelling on his driver's license.

20 Q Can you think of any other documentation that you  
21 could provide to give them?

22 A No. I gave them the Social Security card, I gave  
23 them mail that was mailed to him in his name, and the  
24 red, white and blue card, Social Security card, and the  
25 little -- his driving license.

NANNETTE MAYZE - DIRECT



1 Q And his birth certificate?

2 A And the birth certificate.

3 Q The last paragraph of this says "If you are able to  
4 provide new or additional information to assist the DMV  
5 in verifying proof of your name and date of birth or  
6 citizenship, please contact the DMV compliance team  
7 directly." It says "If you are able to provide new or  
8 additional information." Is there any new or additional  
9 information that you could provide them to -- beyond what  
10 you've already provided to verify the proof of  
11 Mr. Randle's name or date of birth or citizenship?

12 A No.

13 Q Let me ask you -- let me ask you to take a look at  
14 the next page of this exhibit which I believe is page  
15 four of Plaintiffs' Exhibit 445. And let me direct your  
16 attention to the very small print at the bottom of the  
17 page, Ms. Mayze. Do you see that? Can you read that?

18 A Yes.

19 Q It says "This receipt is valid for 60 days and can  
20 be renewed unless otherwise canceled by WisDOT. Does  
21 that tell you how you could renew the receipt?

22 A No.

23 Q Okay. And do you have any understanding of what  
24 they mean by *unless otherwise canceled by WisDOT*?

25 A No.

NANNETTE MAYZE - DIRECT

1 Q Ms. Mayze, is your father a lawful Wisconsin  
2 resident?

3 A Yes.

4 Q Is he an American citizen?

5 A Yes.

6 Q Does he want to vote in the November 2016 election?

7 A Yes.

8 MR. SPIVA: I have no further questions. Thank  
9 you very much, Ms. Mayze.

10 THE COURT: Cross-examination. (11:30 a.m.)

11 CROSS-EXAMINATION

12 BY MS. SCHMELZER:

13 Q Hello, Ms. Mayze.

14 A Hi.

15 Q So you started the process of getting your father a  
16 state ID in August of 2011; is that correct?

17 A Yes.

18 Q And you wanted him to have an ID because you felt it  
19 was important for him to have now that he was living in  
20 Wisconsin; is that correct?

21 A Yes.

22 Q And voting wasn't an issue at that time, having to  
23 have an ID; correct?

24 A Yes.

25 Q So your motivation wasn't to allow him to vote, it

NANNETTE MAYZE - CROSS

1 was for another purpose.

2 A Yes.

3 Q And in 2015 when you went through the process of  
4 filling out a petition to get the Wisconsin ID card, your  
5 motivation was still the same; correct?

6 A No.

7 Q Do you remember having your deposition taken in this  
8 case?

9 A Yes.

10 Q And you were under oath for that; correct?

11 A Yes.

12 Q Ms. Mayze, I'm going to show you a page from your  
13 transcript in that deposition.

14 A Okay.

15 MR. SPIVA: Could you give us a page number?

16 MS. SCHMELZER: Sure. 32.

17 BY MS. SCHMELZER:

18 Q Down at line 20, do you recall me asking you:

19 "Question: When you went to get a voter ID card,  
20 was the motivation still the same to get the ID as it was  
21 back in 2011?"

22 Do you recall me asking you that question?

23 A No, I don't remember, but I see it in front of me.

24 Q And did you answer "yes"?

25 A Yes.

1 Q So the voter ID process was another way of getting a  
2 Wisconsin ID for your dad?

3 A Yes.

4 Q In fact, he had never voted in Wisconsin prior to  
5 that; is that correct?

6 A No, he hadn't.

7 Q Let's talk about the process that you went through.  
8 You were aware from that first visit to DMV that you  
9 needed his birth certificate; correct?

10 A Yes.

11 Q And you said that you got a copy of his birth  
12 certificate about three years ago?

13 A Yes.

14 Q But you didn't -- and you went to the DMV a few  
15 times. I remember you said you went back because you  
16 thought someone would tell you something differently or  
17 you went to another one right after; is that correct?

18 A Yes.

19 Q Back in 2011.

20 A Yes.

21 Q But you didn't provide a copy of your birth  
22 certificate at that time. You didn't bring it to the  
23 DMV.

24 A No.

25 Q No, you didn't bring it to the DMV?

1 A No, I did not in 2011. No.

2 Q And you didn't bring it to the DMV in August, August  
3 12th of 2015 when you filled out his petition; correct?

4 A Correct.

5 Q So when you said that you did bring it, that wasn't  
6 correct.

7 A It's correct, but I didn't take it on that day  
8 because I just didn't. But when they requested, I  
9 brought it back.

10 Q Let's take a look at the petition that was filled  
11 out for your dad. This is Defendants' Exhibit 211,  
12 Exhibit 1 in the folder. I know there's some pop-up  
13 boxes on there, Ms. Mayze.

14 THE COURT: Hold on a moment. Do you have an  
15 objection?

16 MR. SPIVA: I object. The document has  
17 alterations on it. She clearly didn't fill out those  
18 pop-out boxes.

19 THE COURT: I'll overrule the objection for now  
20 and figure out what this document is.

21 BY MS. SCHMELZER:

22 Q Do you remember me showing you a copy of this  
23 document at your deposition, Ms. Mayze?

24 A Yes.

25 Q And this is a document that you said was filled out

1 for your dad?

2 A Yes.

3 Q At first you said you filled it out, but then you  
4 said it was actually a friend of yours that filled it  
5 out; correct?

6 A Right, because I had to step out for a few minutes.

7 Q But did you help with the information that was  
8 provided on there?

9 A Yes.

10 Q And you didn't have the birth certificate with you  
11 at the time?

12 A No.

13 Q But you did have it somewhere at that time; correct?

14 A Yes, I did.

15 Q And some of the information on this petition was  
16 incorrect; is that right?

17 A Yes.

18 Q So where you filled out place of birth: State,  
19 Mississippi, that was correct?

20 A Yes.

21 Q The next spot down here where it says *place of*  
22 *birth, county*, there's no county in there; correct?

23 A Correct.

24 Q And that county would have been on the birth  
25 certificate; is that correct?

1 A Correct.

2 Q And place of birth, you have Tchula as far as place  
3 of birth; is that correct?

4 A Correct.

5 Q And was that the proper place of birth?

6 A Yes.

7 Q And you have for his mother's maiden name Randle?

8 A Yes.

9 Q But you knew it wasn't Randle when you filled that  
10 out; correct?

11 A Yeah, yes.

12 Q You thought it was Bankhead and then Moore and then  
13 the correct spelling of More; correct?

14 A Correct.

15 Q And that was all on the birth certificate, the  
16 correct maiden name?

17 A Yes.

18 Q And then for his father's first name you have  
19 Johnny; correct?

20 A Yes.

21 Q And that was actually James; right?

22 A Correct, yes.

23 Q And that was on the birth certificate as well.

24 A Yes.

25 Q So there was a lot of incorrect information on here

1 that you could have had correct had you brought the birth  
2 certificate with you.

3 A Yes.

4 Q And you didn't think to say well, I'm going to go  
5 back and get the birth certificate so I can get that  
6 information right.

7 A No, I didn't.

8 Q And that delayed the process of the dealings with  
9 the DMV; correct? There was a lot of back and forth  
10 confirming what was correct and not correct?

11 A Before and after, yes.

12 Q We talked a little bit about -- you talked a little  
13 bit about the REAL ID Affidavit that was sent to you  
14 initially that you had filled out. Do you recall that?

15 A Yes.

16 Q This is Defense Exhibit 211. It's Exhibit 3. I  
17 know it's got a different number on it, but this is the  
18 affidavit that you filled out that you had talked about  
19 with Mr. Spiva; correct?

20 A Yes.

21 Q And did you read the top of this before you signed  
22 and had it notarized?

23 A I read it.

24 Q Did you understand it?

25 A Maybe not as much.



1 Q Okay. Let's go and read some of this. Does it say  
2 "Federal law requires an applicant for REAL ID to provide  
3 at least one of the listed sources of documents to prove  
4 identity. In some cases, those source documents might  
5 not show an individual's legal name if the name was  
6 changed after the document was created."

7 Did you understand what that meant?

8 A No.

9 Q It goes on to say "Federal law recognizes name  
10 changes through marriage, adoption, court order or other  
11 mechanisms permitted by the state law or regulation but  
12 requires the applicant to provide evidence of that name  
13 change. Name changes done through court procedures  
14 create legal documents proving the name change. However,  
15 Wisconsin recognizes the common law right to change one's  
16 name through consistent and continuous use as long as the  
17 change is not affected for a fraudulent purpose."

18 Did you recognize that your dad had used the  
19 spelling of his name that he's always known consistently  
20 since birth? Correct?

21 A Yes.

22 Q "These lawful common name changes do not generate  
23 legal documents proving the name change." Did you  
24 understand that?

25 A No.

1 Q Did you ever think to call Becky back or anyone at  
2 DMV to explain this to you before you signed and had it  
3 notarized?

4 A No.

5 Q And after you had filled out that form, you had some  
6 more communication with DMV about how that wasn't  
7 properly completed; is that correct?

8 A I think. I'm not sure.

9 Q At some point Becky sent you another form that she  
10 had put in some information; is that correct?

11 A Yes.

12 Q And that was that November 18th letter?

13 A Yes.

14 Q And you didn't even look at that, did you?

15 A No.

16 Q You didn't --

17 A I glanced and put it aside.

18 Q Okay. You didn't call Becky and say what do I have  
19 to do here, why am I signing this and what does this  
20 mean?

21 A No.

22 Q But your dad would have been agreeable to signing a  
23 document that says I want to use the name I've always  
24 been known as Johnny J-o-h-n-n-y, M. Randle, R-a-n-d-l-e;  
25 correct?

1 A Yes, maybe.

2 Q And are you willing to continue to work with the DMV  
3 to get -- to complete that process, to let him use his  
4 name that he's always been known as by some form -- by  
5 filing another REAL ID application or affidavit that  
6 would allow him to continue to use the name he's always  
7 been known by?

8 A Yes.

9 MS. SCHMELZER: Thank you, Ms. Mayze.

10 THE WITNESS: You're welcome.

11 THE COURT: Any redirect?

12 MR. SPIVA: Yes, very briefly.

13 REDIRECT EXAMINATION

14 BY MR. SPIVA:

15 Q Ms. Mayze, we won't keep you much longer. So I just  
16 want to make sure I'm clear. Does your father have a  
17 present desire to vote in the November election?

18 A Yes.

19 Q And attorney -- Ms. -- the attorney for the other  
20 side was asking you about some of the affidavit of name  
21 change documents. Do you recall that?

22 A Yes.

23 Q I believe they're also called REAL ID affidavits.  
24 Do you recall that?

25 A I don't remember all that.

NANNETTE MAYZE - REDIRECT

1 Q One of the documents she was just asking you about.

2 A Oh, yes.

3 Q Okay. Ms. Mayze, I'm not being a smart aleck, but  
4 have you been to law school?

5 A No.

6 Q Did you have access to a lawyer to help you, you  
7 know, decipher what these forms meant and called for?

8 A No.

9 Q Do you have money to pay a lawyer to try to help  
10 figure out what these forms mean?

11 A No.

12 MR. SPIVA: Thank you, Ms. Mayze.

13 THE COURT: All right. Ms. Mayze, thank you  
14 very much. You're finished now.

15 (Witness excused at 11:43 a.m.)

16 THE COURT: Just so you know what the schedule  
17 here is, I have a proposal we take our lunch at about  
18 12:30 to about 1:30. So just for your planning purposes  
19 if you get within shouting distance of that time and  
20 we're at a break with the witness, we can take a lunch  
21 then.

22 MR. KAUL: Your Honor, next it's Cassandra  
23 Silas.

24

25

1           **CASSANDRA SILAS, PLAINTIFFS' WITNESS, SWORN,**

2                           DIRECT EXAMINATION

3   BY MR. KAUL:

4   Q     Good morning, Ms. Silas.

5   A     Good morning.

6   Q     Would you please spell your name for the record.

7   A     Yes.   Cassandra.   C-a-s-s-a-n-d-r-a.

8   Q     And could you spell your last name too?

9   A     Yes.   Silas.   S-i-l-a-s.

10   Q    Ms. Silas, where were you born?

11   A    Chicago, Illinois.

12   Q    And what year was that?

13   A    1967.

14   Q    And did you move to Wisconsin at some point?

15   A    Yes.

16   Q    When was that?

17   A    In 1991.

18   Q    And you've lived here for almost all the time since  
19   then; is that right?

20   A    Yes.

21   Q    You went to Minnesota for one month?

22   A    Yes.

23   Q    And you got out of there as quickly as possible.

24   And where in Wisconsin do you live?

25   A    53 -- you said where in Wisconsin?

CASSANDRA SILAS - DIRECT

1 Q I actually meant what city.

2 A Oh. In Wisconsin?

3 Q Yes.

4 A In Milwaukee.

5 Q Okay. Is that where you've lived during your entire  
6 time in Wisconsin?

7 A No, just for -- I was going through finding a house  
8 for me and my kids and we went to Waukesha for like a  
9 couple weeks.

10 Q So most of the time in Milwaukee?

11 A Most of the time, yeah.

12 Q Now, are you a voter?

13 A Yes.

14 Q Did you at some point learn about a Vote ID Law in  
15 Wisconsin?

16 A Yes.

17 Q How did you learn about that?

18 A Well, I was looking at the news. That's how I found  
19 out.

20 Q Okay. And at some point did you learn about a free  
21 ID that you potentially could get?

22 A Yes.

23 Q How did you learn about that?

24 A From the news too.

25 Q And did you have a sister who had gone through the

CASSANDRA SILAS - DIRECT

1 ID process?

2 A Yes.

3 Q So at some point did you try to get an ID?

4 A Yes, because she was telling me she was going to  
5 send off for hers and she did and it only took her a  
6 couple days. She told me get them on order and send it  
7 to Chicago, Illinois, and send it through UPS. And she  
8 got hers in a couple days. So she got hers, so I did the  
9 same thing, but I ran into some trouble.

10 Q Let me go back just a step. Do you have some IDs?

11 A I have a Transit Plus ID.

12 Q And who issues that, do you know?

13 A Yes, the bus company. Like when you're disabled and  
14 can't get to the bus and you can ride a cab.

15 Q Okay. And does that have your picture on it?

16 A Yes.

17 Q Does it have your name on it?

18 A Yes.

19 Q Do you know if you can use that to vote?

20 A No.

21 THE COURT: Let me be clear about that. Does  
22 that mean you don't know whether you can use it to vote  
23 or you know that you can't use it?

24 THE WITNESS: I know I can't use it. It don't  
25 have my birth date on it.

CASSANDRA SILAS - DIRECT

1 THE COURT: Thank you.

2 THE WITNESS: You're welcome.

3 BY MR. KAUL:

4 Q Do you have any other picture IDs?

5 A No.

6 Q So is that why you wanted to get the free ID?

7 A Yes, that's why I wanted the free ID, to vote. But  
8 I need the ID for other things too.

9 Q So at some point in time did you contact or go to  
10 the DMV?

11 A Yes. My daughter took me to the DMV.

12 Q Okay. Before you went did you reach out to  
13 somebody?

14 A Yes. I called first and asked them what all did I  
15 need before she took me down there and the lady said  
16 bring something with my name on it, and I told her I got  
17 my ID but not a state ID, a picture ID for my Transit  
18 Plus. And she said well, come on down. And when I went  
19 down there, I was -- I ran into a little trouble the  
20 first time because I didn't have, you know, all the  
21 papers. You know, you've got to see two sets of people  
22 when you go down there and I didn't have all my papers.  
23 So again, my daughter took me back down there. I  
24 have proof about where I stay at; proof that I get food  
25 stamps, I had my food stamp ID. I had my Social Security

CASSANDRA SILAS - DIRECT



1 papers saying -- they gave me a yearly how much I get, my  
2 name, Social Security number, everything. So I took it  
3 down there too.

4 Q And what happened when you got to DMV?

5 A Okay. They took -- gave me a number, took some of  
6 the papers and I assumed, you know, they took a picture  
7 that I was going to get, so I waited a little bit more  
8 because I had to see another lady and she called my  
9 number and she got on the phone.

10 Q And just to be clear, you're talking about somebody  
11 who works at DMV?

12 A Yes.

13 Q You said she got on the phone?

14 A She got on the phone. She said she was going to  
15 call Madison. And they was going back and forth talking.  
16 And when she got off the phone, she was like no, I wasn't  
17 -- you know, she couldn't give me the picture ID. And I  
18 signed another paper from another lady come out, an  
19 African American lady came out the side door and she had  
20 me sign some more, you know, another paper.

21 Q And did you give that to the person at DMV?

22 A Yes.

23 Q Now, do you remember how many times did you actually  
24 go to DMV?

25 A I went twice. The first time I didn't get no

CASSANDRA SILAS - DIRECT

1 paperwork.

2 Q Do you remember exactly what happened on which trip?

3 A No, I just know the first time I didn't get nothing.

4 The second time I got a little something, but I was

5 always -- you don't have enough. But, you know, on the

6 phone she told me just bring the things that, you know,

7 that I have and that's all I had, you know. And I told

8 her I can get something from Social Security, you know,

9 'cause they got all my name, my Social Security number,

10 how long I been on and everything and it still didn't

11 work.

12 MR. KAUL: And do we have a redacted version of

13 PX 354? I have hard copies I can give otherwise. I'm

14 going to hand up hard copies. Your Honor, may I

15 approach?

16 THE COURT: Yes.

17 BY MR. KAUL:

18 Q All right. There are a bunch of different documents

19 in this, but first could you turn to page ten. On the

20 bottom it says 9-010.

21 A That's the first one. All right.

22 Q I'll come give you a hand. May I approach?

23 THE COURT: Yes, please do.

24 Q Do you recognize that document, Ms. Silas?

25 A Yes.

CASSANDRA SILAS - DIRECT

1 Q What is that?

2 A This is my food stamp worker and has my name on it  
3 and, you know, where I was staying and just telling them  
4 who I am and my worker name so if they want to call, they  
5 could call my worker and verify who I was.

6 Q Okay. So first of all, this is a document you got  
7 from -- that relates to food stamps you said?

8 A Yes.

9 Q And that's the Food Share Program?

10 A Yes.

11 Q And do you see on the top right it says State of  
12 Wisconsin?

13 A Yes.

14 Q So do you get Food Share benefits through the State  
15 of Wisconsin?

16 A Yes.

17 Q And this has your correct name on top; right?

18 A Yes.

19 Q And is this where you were living at that time?

20 A Yes.

21 Q Can you turn to the next page in there. It's page  
22 11.

23 A Okay.

24 Q And what's this document?

25 A This is from Social Security Administration.

1 Q And do you get SSI benefits?

2 A Yes.

3 Q And that's from the federal government; right?

4 A Yes.

5 Q And does this also have your name on it?

6 A Yes.

7 Q And was this your address at the time?

8 A Yes.

9 Q Did you give both of these documents, pages 10 and  
10 11, to DMV when you went in?

11 A Yes.

12 Q Do you remember which of those two times it was  
13 exactly?

14 A Both times -- I would say the second time --

15 Q Okay.

16 A -- I gave them the same thing.

17 Q And you talked about filling out a form. Do you  
18 remember that?

19 A Yes.

20 Q Can you go back to page eight. It's a couple pages  
21 earlier.

22 A Okay. Page eight.

23 Q Yes. If you want a hand, let me know.

24 A Okay.

25 MR. KAUL: May I approach, Your Honor?

CASSANDRA SILAS - DIRECT

1 THE COURT: Yes.

2 A Okay. I got it. No, this is nine. Just a minute.

3 Q All right. Do you see that document?

4 A Yes.

5 Q Do you recognize that?

6 A Yes.

7 Q And is that one of the forms that you filled out  
8 that day?

9 A Yes.

10 Q And is the information that you provided on this  
11 form correct to the best of your knowledge?

12 A Yes.

13 Q Okay. Do you see on the bottom, sort of in the  
14 middle on the right-hand side there's a date there right  
15 after your signature?

16 A Yes.

17 Q It's kind of cut off I know, but does January 20th  
18 of 2015 sound about right for when you filled the forms  
19 out?

20 A Yes.

21 Q Okay. Now, go to the next page.

22 A Okay.

23 Q Page nine. Does that show another form you filled  
24 out that day?

25 A Yes.

CASSANDRA SILAS - DIRECT

1 Q Okay. Now you see those little bubbles in red?

2 A Uh-huh, yes, I see them.

3 Q You didn't fill that out, did you?

4 A What you got, the red --

5 Q Yeah. I mean that's not your handwriting, is it?

6 A Hopper. My real name Hopper. Yeah.

7 Q What's Hopper, just to be clear?

8 A That's my mother's maiden name. That's how my  
9 mother told me she had spelled it. You know, she's 70  
10 years old so -- but I had gotten the right spelling. I  
11 called Madison and gave them the right spelling.

12 Q And just to be clear, you hand wrote Hopper; right?

13 A What did you say?

14 Q You hand wrote Hopper in black?

15 A Yes. Not red.

16 THE COURT: Do you know where those little boxes  
17 came from? There's two boxes on there that have Hopper  
18 written in red and it's got Cook County Hospital written  
19 on it. Do you know where those boxes came from or what  
20 those boxes are?

21 THE WITNESS: No.

22 THE COURT: Okay.

23 BY MR. KAUL:

24 Q Now, after you filled out that paperwork, you said  
25 you gave that to DMV?

CASSANDRA SILAS - DIRECT

1 A Yes.

2 Q Did they tell you what was going to happen after  
3 that?

4 A No.

5 Q Did you at some point get a number, phone number to  
6 call for somebody at DMV?

7 A Did I get a phone number? I can't remember.

8 Q Okay. Let me ask you a different question. Do you  
9 remember speaking to a person named Jim Logan?

10 A Yes.

11 Q Who is Jim Logan?

12 A He was working for the Madison -- I thought he was  
13 working for Springfield, Illinois, because I had gotten a  
14 number from Chicago, Illinois.

15 Q Okay. So you had some confusion about who he was?

16 A Yeah, but I know I talked to him at that time.

17 Q Okay. Now, you mentioned trying to get a birth  
18 certificate from Chicago or Cook County before. Do you  
19 remember that?

20 A Yes.

21 Q Did that happen after this all started or before, if  
22 you remember?

23 A It started after because I was trying to get all my  
24 paperwork and I had sent my money order to Chicago,  
25 Illinois, and they sent the receipt, the money order back

CASSANDRA SILAS - DIRECT

1 because they couldn't find it. So they gave me a number  
2 for Springfield, they said that's where they keep all the  
3 records at. So that's why I got Jim mixed up with  
4 Springfield, but he was from Madison.

5 Q Okay. Why did you send a money order to Cook  
6 County?

7 A I was paying for my money order and I was paying for  
8 UPS to have it delivered to my home, you know, a couple  
9 days early.

10 Q Do you know if the birth certificate cost any money?

11 A Yeah, it cost \$12.

12 Q And you said you contacted Springfield?

13 A Yeah.

14 Q And what happened with that?

15 A They checked -- it took them a couple days. They  
16 checked and they said they couldn't find it. And they  
17 said they was going to keep looking and keep looking for  
18 it. I gave them my name. I gave them my brother name.  
19 I gave them my sister name. I said we got the same  
20 mother. And I said she got her birth certificate. I  
21 said her name was spelled something like mine and it was  
22 close, just her name is Andrea, my name is Cassandra and  
23 both of us got Marie for a middle name and we are Silas.  
24 So I asked him could he, you know -- well, he was  
25 checking. Then he told me if he wasn't there, speak with

CASSANDRA SILAS - DIRECT



1 the lady. But I don't remember her name.

2 And she couldn't find it. So they said I might have  
3 to get in front of a judge to get my ID. And my  
4 daughter, she was so upset about it, you know, she was  
5 real upset about it. Right away she, like, if she die,  
6 she give her a death certificate, but they won't give her  
7 a birth certificate.

8 MS. SCHMELZER: Objection. Hearsay.

9 THE COURT: Overruled.

10 BY MR. KAUL:

11 Q Did you try to get school records?

12 A Yes.

13 Q What did you do for that?

14 A I thought it was going to be quicker. They told me  
15 on the form that DMV said I could get my school records,  
16 so I thought it was going to be faster. I called the  
17 Manley High School. They said they didn't have it, call  
18 their school board. So I called their school board and  
19 the day I called, the lady answered. The lady I asked  
20 for, she wasn't there and I told her what I needed. She  
21 said "Well, give me your name and leave your number and  
22 I'll have her call you tomorrow." But she never called.  
23 I got upset about it, you know.

24 Q All right. Let me have you turn to page one in that  
25 packet and I think we can pull this up. This is Exhibit

CASSANDRA SILAS - DIRECT

1 354, the very first page. And Ms. Silas, why don't you  
2 take a look at the first and second page, just take a  
3 look at both of those and let me know if that's a  
4 document you remember seeing.

5 A Yes.

6 Q Okay. And is this something you received in the  
7 mail from DMV?

8 A Yes.

9 Q Let's zoom in on the first page on point number one.  
10 And we talked before about how you submitted your  
11 petition some time around January 20 of 2015; is that  
12 right?

13 A Yes.

14 Q All right. And then let's go down to No. 5.

15 A Okay.

16 Q Now, this says "DMV compliance staff communicated  
17 with you to obtain any additional information that may be  
18 available to help substantiate birth record data. You  
19 communicated that you would contact Cook County Hospital  
20 to see if they may provide additional information to help  
21 verify accurate birth record data in your name."

22 Do you see that?

23 A Yes.

24 Q Do you recall having a conversation with Mr. Logan  
25 about this?

CASSANDRA SILAS - DIRECT

1 A Mr. Logan?

2 Q With Jim Logan.

3 A No.

4 Q Okay.

5 A I just had it on my mail, that's how I found out.

6 Q You remember finding out about it from this mailing?

7 A Only from the paper.

8 Q Let's go down to No. 6 right below that. Okay. It  
9 says that on March 20, 2015, you contacted DMV compliance  
10 staff and requested -- says that "We contacted the county  
11 clerk on behalf. DMV did contact them and was told that  
12 they wouldn't verify any information over the phone and  
13 would only provide documentation for a fee. DMV  
14 compliance staff contacted you and related this  
15 information to you. You indicated -- says that might try  
16 to obtain more information that would verify accurate  
17 birth record data in your name." Do you see that?

18 A Um-hmm.

19 Q Do you remember having a conversation like this with  
20 Jim Logan?

21 A No.

22 Q You did have conversations with Jim Logan; right?

23 A Yes.

24 Q Do you remember the details of all those?

25 A Pretty much, but he didn't say that they would pay

CASSANDRA SILAS - DIRECT

1 for it because I already had sent the money in and I got  
2 a letter -- well, I got a letter from someone or he told  
3 me over the phone, I don't remember. He said if I don't  
4 have it by the time that I send my money order to the  
5 place where he worked, that they would keep it.

6 Q Okay.

7 A But I don't remember.

8 Q Let's turn to the next page, No. 7. And this  
9 indicates that on May 15, 2015, you called and spoke with  
10 DMV staff. You reiterated that you were born in the  
11 United States and then it says -- it reiterated you were  
12 born in the United States. And then it says "In that all  
13 of you know documentation, DMV staff again communicated  
14 that we would need additional information in order to  
15 proceed with your voter ID." Do you see that?

16 A You said 7; right?

17 Q Yes.

18 A Okay. Got it.

19 Q It's the second page, but No. 7.

20 A Oh, second page.

21 THE COURT: It's up at the top of the second  
22 page.

23 MR. KAUL: May I approach?

24 THE COURT: Yes.

25 BY MR. KAUL:

CASSANDRA SILAS - DIRECT

1 Q Do you see that?

2 A Yes.

3 Q Do you remember calling DMV to complain about the  
4 process not moving along?

5 A Yes.

6 Q Had you told DMV that you were born in the United  
7 States?

8 A Yes.

9 Q By the way, how far did you get in school?

10 A Ninth grade.

11 Q Okay. Now, going down that page, do you see there's  
12 a list of types of documentation?

13 A Yes.

14 Q And let me ask you about those. Do you have a  
15 baptismal certificate?

16 A No.

17 Q Do you -- you said you've been trying to get your  
18 birth certificate; right?

19 A Yes.

20 Q Do you know what a census record is?

21 A Yes.

22 Q Okay. What would you consider to be a census  
23 record?

24 A Like when they take a census and send it to your  
25 home.

CASSANDRA SILAS - DIRECT

1 Q Are you aware of any census records that you have?

2 A No.

3 Q And you said you looked for school records; is that  
4 right?

5 A Yes.

6 Q Do you have a family Bible record?

7 A No.

8 Q Do you have any records of post-natal care?

9 A No.

10 Q Are you aware of any other documents that you have  
11 that you can send to DMV --

12 A No.

13 Q -- to try to prove where you were born?

14 A No.

15 Q Now, let's go back to that last entry No. 7. Do you  
16 see that was dated May 15, 2015?

17 A Um-hmm.

18 Q And that's when you called to sort of say what's  
19 going to move this process along; right?

20 A Yes.

21 Q So let's go back to the first page and let's look at  
22 the date of that letter. Says June 18, 2015; right?

23 A It says January.

24 Q I'm sorry. I said June 18, 2015.

25 A Oh, okay.

CASSANDRA SILAS - DIRECT

1 Q At the very top of the page. It's on the screen too  
2 if that's helpful.

3 A Oh, okay. Yeah, I see it.

4 Q So that's basically a month after that last call you  
5 had?

6 A Right.

7 Q And then let's just go back to the second page again  
8 and right below that list of bullet points, we'll zoom in  
9 on that sentence.

10 A Okay.

11 Q And I want to focus on the second sentence. Do you  
12 see it says "Pursuant to this lack of required  
13 documentation, your application for a free Wisconsin  
14 identification card for voting is denied."

15 A Yes.

16 Q And what did you understand that to mean?

17 A It's been denied, that I'm not going to get a  
18 picture ID.

19 Q There was a primary election about a month ago. Did  
20 you know about that?

21 A Yes.

22 Q Did you want to vote in that primary?

23 A Yes, I did.

24 Q Did you show up at the polls to vote?

25 A No.

CASSANDRA SILAS - DIRECT

1 Q Why not?

2 A I didn't have an ID.

3 Q Do you want to vote in the general election coming  
4 up in November?

5 A Yes.

6 Q If you don't get an ID can you vote?

7 A No.

8 Q No, you can't vote?

9 A No.

10 Q Now, did you recently learn about a temporary ID?

11 A Yes.

12 Q And do you know what you have to do to renew that  
13 temporary ID?

14 A No.

15 Q Did -- do you have anymore documents that you have  
16 that you can provide to DMV to work with them?

17 A No.

18 Q What -- you said you were born in Chicago; right?

19 A Yes.

20 Q So you're a U.S. citizen?

21 A Yes.

22 Q Have you ever been out of the United States?

23 A No.

24 Q For the record, you're an African American; is that  
25 right?

CASSANDRA SILAS - DIRECT



1 A Yes.

2 Q Did DMV ever come to meet with you in person to help  
3 you out?

4 A No.

5 Q It was always over the phone?

6 A Yes, most -- most -- I called them. They never  
7 really called me. I don't remember them calling me.

8 MR. KAUL: I don't have any further questions,  
9 Ms. Silas. Thank you.

10 THE COURT: Cross-examination. (2:12 p.m.)

11 CROSS-EXAMINATION

12 BY MS. SCHMELZER:

13 Q Hello, Ms. Silas.

14 A Hi.

15 Q You said you were -- your sister got a state ID;  
16 correct?

17 A Yes.

18 Q And she got her ID pretty quickly?

19 A Yes.

20 Q And she had no problem with that process; correct?

21 A Correct.

22 Q And you said you also have a different photo ID, the  
23 Transit Plus ID card?

24 A Yes.

25 Q And that allows you to take like a cab in Milwaukee

CASSANDRA SILAS - CROSS

1 if you need to get somewhere?

2 A Yes.

3 Q And that involved an application process to get  
4 that; correct?

5 A Yes. I need to update it, but --

6 Q And you have to go and get your picture taken;  
7 correct?

8 A Yes.

9 Q And you have to get a form filled out by your  
10 doctor; correct?

11 A Yes.

12 Q And you have to take it down and have an appointment  
13 at the office; correct?

14 A Yes.

15 Q And you have had a copy of your birth certificate in  
16 the past; correct?

17 A Yes.

18 Q In fact, someone gave you a copy. Your case worker  
19 gave you a copy when you came to Milwaukee?

20 A Yes.

21 Q And you thought your case worker got that from the  
22 Cook County Hospital; correct?

23 A No. She got it from my case worker in Chicago. She  
24 got it from my case worker in Chicago.

25 Q But you misplaced that copy; correct?

CASSANDRA SILAS - CROSS

1 A Yes.

2 Q And that wasn't the only time that you had a copy of  
3 your birth certificate. You also probably got a copy  
4 from Chicago at some point; correct?

5 A No. Not since then, no.

6 Q Do you recall going to the building in Chicago and  
7 getting copies of birth certificates before?

8 A That's when I was with my mother when I told you and  
9 I was younger, not since I've been grown.

10 Q And you don't remember telling me in your deposition  
11 that you probably did get a copy of your own birth  
12 certificate from that building at some point?

13 A I probably did, but I don't know.

14 Q But you said that in your deposition; correct?

15 A Yes.

16 Q And you thought your mom had a copy of your birth  
17 certificate at some point as well; correct?

18 A Yes.

19 Q Let's look again at your application, your petition  
20 that you filed in the case or in -- with the DMV.

21 A Okay.

22 Q This is Defense Exhibit 213. Exhibit 1. Is that a  
23 copy of the petition that you filled out at the DMV?

24 A Yes.

25 Q And that's dated January 20, 2015; correct?

1 A Yes.

2 Q And the information you provided on here isn't all  
3 correct; is that right?

4 A Right.

5 Q Where it says place of birth, county or equivalent  
6 you put county; correct?

7 A Correct.

8 Q And that was Cook County. It was supposed to be  
9 Cook County?

10 A Right.

11 Q And when it says mother's last name, you have  
12 Hopper; correct?

13 A Yeah.

14 Q And Hopper is the name that you gave the DMV when  
15 they called you to verify that; correct?

16 A Right.

17 Q But that's not right.

18 A Right. But that's what my mother gave me -- my dad  
19 -- that name, she spelled it like that. So that's why I  
20 used that.

21 Q But you know that your mom's correct maiden name is  
22 Harper, H-a-r-p-e-r --

23 A Harper, yes.

24 Q -- correct?

25 A Yes.

1 Q And you don't know that you ever corrected that  
2 information with DMV?

3 A No. But when I talked to Jim, I let him know that  
4 it was H-a-r-p-e-r.

5 Q Go back to your deposition. You remember having  
6 your deposition taken in this case; correct?

7 A Yes.

8 Q Page 36. Let's go to line 14 on page 36. Do you  
9 remember saying -- do you remember me asking on line 13:  
10 "Question: When did you ask her?"

11 And you answered "My mother stays up here now. She  
12 moved up here. And I asked her last year. When I asked  
13 her, mama, how your last name spelled, your maiden name,  
14 and she said Harper"; correct?

15 A Yes.

16 Q And let's go to page 37. Right below that. Do you  
17 remember me asking you at line 15 --

18 A Uh-huh.

19 Q "And you have your mother's last name as Hopper".  
20 That's wrong," you answered.

21 A Right.

22 Q And then at line 22 do you remember me asking -- or  
23 at line 20. "Did you correct that at some point with the  
24 DMV?" And you said "Yes."

25 And then I asked you "Do you know when you did

1 that?"

2 And then you answered "I don't know if I corrected  
3 with DMV. I'm not sure. But I corrected the birth  
4 certificate. I am not sure if I corrected with DMV."

5 Is that what you said?

6 A Yes.

7 Q I'm going to put your petition back up there again.  
8 You spell your first name C-a-s-s-a-n-d-r-a; correct?

9 A Yes.

10 Q Is that how you sign it as well on the bottom?

11 A Yes.

12 Q You don't sign it C-a-s-s-e-r-d-e-r-a?

13 A Huh-uh.

14 Q Okay. You said at some point you requested your  
15 school records?

16 A Yes.

17 Q Okay. Let's look at exhibit -- Defense Exhibit 271.  
18 I want to put this up on the screen for you, Ms. Silas.

19 A Okay.

20 Q Is that the application that you filled out to get  
21 your school records?

22 A Yes. That was for Manley High School.

23 Q Do you remember when you did that?

24 A I don't remember.

25 Q Let me turn the page there. Does that refresh your

1 recollection there? Was it June 14, 2015?

2 A Yeah.

3 Q I'm just going to go back to the first page.

4 A Okay.

5 Q How do you spell your first name on there?

6 A C-a-s-s-a-n-d-e-r-a. I put an E in there because  
7 when I talked to Jeff, he was like "Well, do you got a  
8 missing letter in your name?" I said "Well, I don't  
9 know, I might." I said "Can you check?" So that's why I  
10 was starting to put the "e" in there to see can they find  
11 it.

12 Q Did you ever put a school -- a request for your  
13 school records in with --

14 A With Manley High School?

15 Q Yes. With the spelling that you used on your  
16 petition.

17 A I called Manley. They said they no longer have my  
18 records. I have to call the school board and I called  
19 them. She wasn't there. They took my name, my number.  
20 They said they're going to have her call me the next day.  
21 She didn't call me.

22 Q Okay. So you did -- besides this written  
23 application that has your name spelled differently --

24 A Correct.

25 Q -- you called her.

1 A Not from this number. This is Manley High School.  
2 I had to call the school board.

3 Q But you never notified this school?

4 A Manley High School? No. I called them, my high  
5 school, but they no longer have my records.

6 Q Did you -- did you give them the name that you used,  
7 C-a-s-s-a-n --

8 A No.

9 Q -- -d-r-a?

10 A No, I didn't. They didn't -- no. They didn't want  
11 my records. They wanted me to talk to the school board.

12 Q So you've used two different spellings of your first  
13 name in trying to get your school records; correct?

14 A Right. That's the only time I did that, put the "e"  
15 in there. And I told Jim that yes, could he check and  
16 see is the "e" in my name when he was trying to find my  
17 birth certificate.

18 Q And you understand that some of the incorrect  
19 information on your petition caused the delay in that  
20 process for them to verify; correct?

21 A Yes.

22 Q I know you saw this exhibit earlier with Mr. Kaul,  
23 but this is I guess another version of it. Let me put up  
24 a clean copy. Is this the June 18, 2015, letter that you  
25 received from the DMV?



1 A Um-hmm.

2 Q And this is Defense Exhibit 213, third exhibit. And  
3 look at paragraph four there. When you read this letter,  
4 were you aware that the DMV compliance staff contacted  
5 the Cook County Hospital on your behalf but was informed  
6 that the verification could only be released to you?

7 A No, I didn't.

8 Q Did you read this letter?

9 A Yes, but I didn't -- no, I didn't know.

10 Q Did you understand that they could only release it  
11 to you and not to the DMV?

12 A No, because I didn't know the DMV was going to  
13 contact them.

14 Q Did you understand --

15 A No, I didn't.

16 Q Did you understand that after you read the letter?

17 A No.

18 Q And do you see in paragraph five where it says you  
19 communicated that you would contact Cook County Hospital  
20 to see if they may provide additional information to help  
21 verify accurate birth record data in your name. Do you  
22 see that?

23 A Yes.

24 Q Did you tell them that you would try to contact the  
25 Cook County Hospital?

1 A Yeah.

2 Q But you didn't try -- you didn't contact Cook County  
3 Hospital, did you?

4 A No, I tried to do the school because I thought that  
5 was going to be fast.

6 Q You said that you started this process because you  
7 saw that you would need an ID to vote. You saw that on  
8 TV; correct?

9 A Yes.

10 Q But there are also other reasons why you wanted to  
11 get an ID; correct?

12 A Yes. I told you, yes.

13 Q You had gone to the doctor before that to get a  
14 prescription medication; is that correct?

15 A It wasn't about that, just the doctor. Because he  
16 took my ID that I have that expired. I need ID just for  
17 mainly things: To get a house, to get lights on in my  
18 name, to do different things, to vote, to have my rights.  
19 It wasn't just for I went to the doctor to get a  
20 prescription. I wanted it for other things that I can do  
21 that stopping me from doing it not having an ID.

22 Q And just to show who you are; correct?

23 A And to show who I am.

24 Q And right around that time though you thought you  
25 could go get a quick ID to come back and get your

1 prescription; right?

2 A No, because I was already up in the clinic. They  
3 took my ID. You know, my doctor took my ID. She knew  
4 who I was.

5 Q But they didn't give you the medicine that day.

6 A No, I was trying to go to another clinic. I was  
7 going to pay. Yeah, I was going to pay \$300 because, you  
8 know --

9 Q And they wouldn't give you that prescription because  
10 you didn't have a state ID.

11 A My ID; right. They took the picture and I assumed I  
12 was going to get the ID.

13 Q Are you willing to continue to work with the DMV to  
14 try to find your birth certificate?

15 A Yes, of course.

16 Q You also stated or I think you expressed in your  
17 deposition some willingness to try and vote in-person  
18 absentee at some point, correct, assuming you get your  
19 photo ID?

20 A Yes.

21 Q And now that you have a receipt to do that, you  
22 would like to exercise your right to vote in-person  
23 absentee?

24 A Yes, but that's only a lot of running around, and  
25 I'm disabled. It's only for a few months; right?

1 Q Well, two weeks would be adequate time for you to do  
2 that; correct?

3 A Two weeks, yeah. But I have to get someone to take  
4 me around, you know, and mostly my daughter, she take me  
5 around. She got her family. So, you know, I will use  
6 it, yes, but I would want to have an ID too.

7 Q I understand. And you -- if you were allowed to go  
8 and vote in person two weeks before the election, that  
9 would be enough time for you; correct?

10 A Yes.

11 Q And before -- when you had voted before, sometimes  
12 you had to register at the polls; correct?

13 A Yes.

14 Q And you've never had a problem showing proof of  
15 where you live, proof of your residency; correct?

16 A No.

17 Q You've never had a problem?

18 A No.

19 Q And Ms. Silas, you are aware that you have gotten an  
20 ID receipt that would enable you to vote; correct?

21 A Yes.

22 MR. KAUL: Objection. Mischaracterizes.

23 THE COURT: Ask the question again. I'm not  
24 sure it was clear.

25 BY MS. SCHMELZER:

CASSANDRA SILAS - CROSS

1 Q Ms. Silas, you are aware you have got a receipt for  
2 a state ID that provides your photo identification;  
3 correct?

4 MR. KAUL: Objecting to form, Your Honor. She's  
5 characterizing as are you aware and it's just a  
6 misrepresentation.

7 THE COURT: Overruled. Go ahead and ask the  
8 question again to make sure we get the correct response  
9 from the witness.

10 BY MS. SCHMELZER:

11 Q Ms. Silas, are you aware the DMV has issued you an  
12 ID receipt in this case with your photo ID on it for  
13 purposes of voting?

14 A Yes.

15 MS. SCHMELZER: Thank you, Ms. Silas.

16 THE COURT: Okay. Redirect. (12:27 p.m.)

17 REDIRECT EXAMINATION

18 BY MR. KAUL:

19 Q Ms. Silas, let me start with the photo ID you were  
20 asked about, the temporary ID. I think you said do you  
21 remember how long that's good for?

22 A Yeah, probably.

23 Q About how long is that good for?

24 A No, I don't know how long it's good for.

25 Q Do you know if the one you got is good all the way

1 to the next election? Do you know if it is or not?

2 A No. It's good for the next election?

3 Q Do you know whether it is?

4 A I wouldn't -- it's in my purse, but I didn't really,  
5 you know, go through it all. I didn't read -- really  
6 understand it, but I've got to read it again.

7 Q Do you know what you have to do to renew that?

8 A No.

9 Q And I think you mentioned this before, but do you  
10 have anything else you can give the DMV?

11 A No.

12 Q You were asked before about having a birth  
13 certificate when you were younger. Do you remember that?

14 A Yes.

15 Q And I think you were asked didn't you say in your  
16 deposition that you had got one when you were, I think  
17 you said, before you were 18?

18 A Yes.

19 Q Do you remember clarifying in your deposition that  
20 you had gotten a birth certificate for your child?

21 A Yes.

22 Q Now, you also said you had a birth certificate when  
23 you moved to Milwaukee, that your case worker had it?

24 A Yes. She sent mine and my three children.

25 Q And what year did you move to Milwaukee?

1 A 1991.

2 Q So that was 25 years ago?

3 A Yes.

4 Q Do you remember when you last had that one?

5 A Been years, maybe close to 20 years I haven't had  
6 it.

7 Q And what's your understanding of the issue that the  
8 DMV has had why it won't process your application?

9 A I don't know. Everybody else -- I've been here  
10 since close to 25 years or more and I don't know. My  
11 doctor, they take it, you know. Different doctors take  
12 it. I have some problems, I run into problems, you know,  
13 and me and my daughter, we got the house without my ID,  
14 with hers. And, you know, I can't get lights in my name  
15 and, you know, I just need an ID. I don't know what  
16 their purpose -- I did call, I sent the money, I did all  
17 I can do and they say I might have to go in front of the  
18 judge. I say I'll do that; whatever I have to do, I will  
19 do. Sometimes I don't understand when they write these  
20 letters and I don't understand and --

21 Q Let me ask you a specific question. You said you're  
22 trying to get your birth certificate?

23 A Yes.

24 Q Why were you trying to do that?

25 A Because I need my birth certificate.

1 Q Okay. And did you think the birth certificate would  
2 help you get the ID if you got it?

3 A Yes.

4 Q Did Jim Logan at DMV ever tell you that you couldn't  
5 get an ID because you can't tell if your name when it was  
6 signed if it had an "e" in it or not?

7 A No, he didn't.

8 Q Did he at some point ask you if maybe your name was  
9 spelled differently?

10 A Yeah. He asked me was a letter missing out of my  
11 name. I said well, there might be an "e" because there's  
12 one in my sister's name. It might be missing. He said  
13 he would check. So he said give him a couple days and he  
14 was going to check.

15 Q Is that what caused you to use that other spelling  
16 in that letter you sent?

17 A Yes.

18 Q Have you ever always gone by the same spelling your  
19 whole life?

20 A Yes.

21 Q So you know how your name is actually spelled.

22 A Yes.

23 MR. KAUL: No further questions.

24 THE COURT: All right. Thank you. Ms. Silas,  
25 you're finished.



1 THE WITNESS: Thank you.

2 (Witness excused at 12:30 p.m.)

3 THE COURT: And with that, we're going to take  
4 our lunch break. We'll reconvene at 1:30 and we'll  
5 continue with your next witness.

6 (Noon Recess 12:30 p.m.)

7

8 \* \* \* \* \*

9 I, LYNETTE SWENSON, Certified Realtime and  
10 Merit Reporter in and for the State of Wisconsin, certify  
11 that the foregoing is a true and accurate record of the  
12 proceedings held on the 16th day of May, 2016, before the  
13 Honorable James D. Peterson, District Judge for the  
14 Western District of Wisconsin, in my presence and reduced  
15 to writing in accordance with my stenographic notes made  
16 at said time and place.

17 Dated this 2nd day of June 2016.

18

19

20 /s/\_\_\_\_\_

21 Lynette Swenson, RMR, CRR, CBC  
22 Federal Court Reporter

23

24

24 The foregoing certification of this transcript does not  
25 apply to any reproduction of the same by any means unless  
under the direct control and/or direction of the  
certifying court reporter.